



IT IS ORDERED as set forth below:

Date: February 02, 2011

W. H. Drake
U.S. Bankruptcy Court Judge

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
NEWNAN DIVISION**

IN THE MATTER OF:	:	CASE NUMBER
	:	
DONNIE KEITH FOSTER	:	06-12013-WHD
APRIL DAWN FOSTER,	:	
	:	IN PROCEEDINGS UNDER
	:	CHAPTER 13 OF THE
DEBTORS.	:	BANKRUPTCY CODE

ORDER

Before the Court is the Motion to Withdraw as Counsel filed by James N. Stanley, attorney of record for Donnie and April Foster, the debtors in the above-referenced bankruptcy proceeding. Although the Motion is unopposed, the Motion does not comply with Local Bankruptcy Rule 9010-5.

Rule 9010-5 requires an attorney who wishes to withdraw to provide the client with fourteen (14) days' notice of the intent to withdraw *prior to* filing the motion to withdraw. *See* BLR 9010-5 ("Such notice shall be served on the client . . . and shall contain at least the

following: (A) That the attorney wishes to withdraw and *intends* to file a motion to withdraw"; "The motion shall include the attorney's certification that the attorney has given the client 14 days' prior written notice of the attorney's intention to request permission to withdraw" (emphasis added). Here, the letter was mailed to the clients the same day the Motion was filed.

Further, the notice to the client must state that the client has fourteen (14) days to contact the attorney and state any objections to the motion to withdraw. *Id.* Counsel's notice states that the clients have ten days to oppose counsel's withdrawal and, if counsel does "not hear from" them, the Court will assume the clients do not oppose the motion and will grant the motion. This is not a correct interpretation of the requirements of Rule 9010-5 and confuses the clients' distinct rights to contact the attorney with an objection to his filing of a motion to withdraw and their right to file an objection with the Court in the event the motion to withdraw is actually filed.

Finally, under Rule 9010-5, the motion must be accompanied by a notice to the client that "any objection to the motion must be filed within 14 days after its service" and must include the address of the Bankruptcy Clerk's office where the objection may be filed. *Id.* Counsel's motion lacks such a notice entirely.

For these reasons, the Motion to Withdraw as Counsel is hereby **DENIED without prejudice.**

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