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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

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Demetrio Valdez-Banda, et al.,

No. 08-1520-PHX-FJM

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Plaintiffs,

ORDER

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vs.

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LBJ Farms, et al.,

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Defendants.

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The court has before it “Plaintiffs’ Expedited Motion to Enforce Settlement Agreement and for Entry of Consent Decree” (doc. 65), to which no response has been received, counsel for defendants’ “Renewed Motion for Leave to Withdraw as Counsel for Defendants” (doc. 66), “Plaintiffs’ Response to Motion to Withdraw as Counsel for Defendants” (doc. 67), and “Plaintiffs’ Request for Status Conference” (doc. 68).

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Some history is in order. On May 22, 2009, we denied defense counsel’s motion to withdraw because it failed to comply with LRCiv 83.3(b)(3) and because an LLC cannot appear in this court without counsel (doc. 44). On July 27, 2009, we denied plaintiffs’ motion to amend the scheduling order (doc. 54). Plaintiffs complained that the defendants were delaying the case and we concluded that the remedy for delay was sanctions including default, and not an amendment to the Rule 16 scheduling order.

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On September 9, 2009, defense counsel filed a “Notice of Settlement” (doc. 62). Once the parties settle a case, the underlying claims in the case are extinguished by the accord. Any future disputes the parties may have over the transaction would have to be

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1 resolved by way of enforcement of the agreement, typically in a separate independent action.
2 As a result of receiving the Notice of Settlement, we entered our order on September 10,
3 2009, indicating that the case would be dismissed with prejudice unless the parties filed their
4 own stipulation to dismiss by October 10, 2009 (doc. 63). Instead of the stipulation to
5 dismiss, the court received the above three motions which are now ripe for ruling.

6 Plaintiffs contend that the parties' settlement agreement was memorialized in a
7 writing, that defendants filed the Notice of Settlement and refused to participate in discovery
8 because the case had settled. Plaintiffs complain that defendants have failed to sign the
9 agreement that they entered into. Defendants have not controverted these assertions. LRCiv
10 7.2(i). Instead, defense counsel has renewed the motion to withdraw, but has still not
11 complied with LRCiv 83.3(b)(3), which provides that no lawyer shall be permitted to
12 withdraw once a case has been set for trial unless there is the signature of a lawyer stating
13 that the lawyer is advised of the trial date and will be prepared or the signature of the client
14 stating that the client is advised of the trial date and has made suitable arrangements to be
15 prepared. Although the motion refers to some other lawyer, no such lawyer has moved to
16 substitute. Moreover, the LLC defendants cannot appear in this court without a lawyer.
17 Defendants have been on notice of this at least since our order of May 21, 2009 (doc. 44).

18 It seems plain that defense counsel had the authority to settle this case and did so. The
19 defendants are manipulating not only their lawyer but this court. They have failed to respond
20 to the motion to enforce the settlement agreement and have even failed to respond to
21 counsel's renewed motion to withdraw. They cannot abort our process by their non-
22 participation.

23 IT IS THEREFORE ORDERED GRANTING "Plaintiffs' Expedited Motion to
24 Enforce Settlement Agreement" (doc. 65) to this extent. The court finds that the settlement
25 agreement attached as Exhibit D to plaintiffs' motion is a valid, binding agreement among
26 the parties to this case. The failure of the defendants to have signed it is no bar to its
27 enforcement. The filing of the Notice of Settlement by the defendants' counsel is sufficient
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