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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
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9 Idearc Media LLC,

10 Plaintiff,

11 v.

12 Palmisano & Associates PC, et al.,

13 Defendants.

No. CV-09-02147-PHX-JAT

**ORDER**

14 Pending before the Court is Plaintiff's Motion for Award of Attorneys' Fees and  
15 Related Non-Taxable Expenses (Doc. 63) and James E. Brown, P.C.'s Motion to  
16 Withdraw as Counsel of Record without Consent (Doc. 70). The Court now rules on the  
17 motions.

18 **I. Motion for Award of Attorneys' Fees**

19 Following the Court's grant of summary judgment in favor of Plaintiff and against  
20 Defendants, (Doc. 61), Plaintiff moved for an award of attorneys' fees, (Doc. 63), to  
21 which Plaintiff did not respond. In its September 5, 2013 Order, the Court stated:

22 The Court could deem Defendants' failure to respond to the  
23 motion for attorneys' fees to be consent to the Court granting  
24 the Motion. *See* LRCiv 7.2(i) (stating that, if the required  
25 answering memoranda are not served and filed, such  
26 noncompliance may be deemed consent to the granting of the  
27 motion and the Court may dispose of the motion summarily).  
28 However, the Court will grant Defendants an additional ten  
days from the date of this Order to respond to Plaintiff's  
Motion for Attorneys' Fees (Doc. 63). Plaintiff shall have  
seven days from the date the response is filed to file a reply in  
support of their Motion for Attorneys' Fees. However, if  
Defendants fail to file a response within ten days of the date  
of this Order, the Court will deem the non-response consent

1 to granting the Motion for Attorneys' Fees and will award  
2 such attorneys' fees without further notice to the Parties.  
3 Moreover, Defense counsel is warned that, in future cases, he  
4 must comply with the Federal Rules of Civil Procedure and  
the Local Rules of this Court and should not rely on the Court  
granting sua sponte extensions of time.

5 (Doc. 68 at 4-5). Accordingly, the Court ordered Defendants to file a response to  
6 Plaintiff's Motion for Attorneys' Fees and again warned Defendants that the Court would  
7 deem failure to respond as consent to granting the motion:

8 **IT IS FURTHER ORDERED** that Defendants shall file a  
9 response to Plaintiff's Motion for Attorneys' Fees (Doc. 63)  
10 within ten days of the date of this Order. Plaintiff shall have  
11 seven days from the date the response is filed to file a reply in  
12 support of their Motion for Attorneys' Fees (Doc. 63). If  
Defendants fail to file a response within ten days of the date  
of this Order, the Court will deem the non-response consent  
to granting the Motion for Attorneys' Fees and will award  
such attorneys' fees without further notice to the Parties.

13 (*Id.* at 5).

14 Defendants have not filed a response. Therefore, for the reasons stated in the  
15 Court's September 5, 2013 Order, the Court deems Defendants' failure to respond to be  
16 consent to granting the motion. The Court grants Plaintiff's Motion for Attorneys' Fees.

17 **II. Motion to Withdraw as Attorney**

18 On September 18, 2013, counsel for Defendants moved, unopposed, to withdraw  
19 as counsel of record. (Doc. 70). Because nothing remains pending in this case, the motion  
20 to withdraw is denied without prejudice to refile it if counsel deems it to be necessary. If  
21 counsel chooses to refile, counsel must address the fact that neither a corporation nor an  
22 LLC may appear in federal court without counsel. *D-Beam Ltd. P'ship v. Roller Derby*  
23 *Skates, Inc.*, 366 F.3d 972, 973-74 (9th Cir. 2004); *Pope Equity Trust v. Stradley*, 818  
24 F.2d 696, 697 (9th Cir. 1987).


25 **III. Conclusion**

26 For the foregoing reasons,

27 **IT IS ORDERED** granting Plaintiff's Motion for Attorneys' Fees (Doc. 63) in  
28 full; Plaintiff is awarded attorneys' fees in the amount of \$78,562.00.

1           **IT IS FURTHER ORDERED** denying without prejudice James E. Brown, P.C.'s  
2 Motion to Withdraw as Counsel of Record Without Consent (Doc. 70).

3           Dated this 21st day of March, 2014.

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9           James A. Teilborg  
10           Senior United States District Judge  
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