

1 **WO**

2
3
4
5
6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
8

9 Everett Pilkington,

10 Plaintiff,

11 v.

12 Abuela's Cocina LLC, et al.,

13 Defendants.
14

No. CV-18-00281-TUC-RCC

ORDER

15 Pending before the Court is Plaintiff's attorneys' Motion to Withdraw as Counsel
16 for Plaintiff. (Doc. 79.) Counsel has attempted to contact Plaintiff multiple times over the
17 last few weeks with no response. In addition, counsel has attempted to contact Plaintiff's
18 family locate Plaintiff to no avail. Counsel believe they cannot adequately represent
19 Plaintiff's interests because of his lack of communication. Counsel has notified Plaintiff
20 of the intent to withdraw and provided the Motion and upcoming deadlines both to
21 Plaintiff's email and mailing address.

22 Under the American Bar Association's Model Rules of Professional Conduct, an
23 attorney may withdraw from representation if "the client fails substantially to fulfill an
24 obligation to the lawyer regarding the lawyer's services and has been given reasonable
25 warning that the lawyer will withdraw unless the obligation is fulfilled." Model Rules of
26 Prof'l Conduct r. 1.16 (Am. Bar Ass'n 2018). Furthermore, under Local Rule of Civil
27 Procedure 83.3(b)(2), an attorney may withdraw as counsel without the written consent of
28 the client when the motion is served on the client, accompanied by the attorney's

1 certification that “(A) the client has been notified in writing of the *status* of the case . . . ,
2 or (B) the client cannot be located or for whatever other reason cannot be notified of the
3 pendency of the motion and the status of the case.”

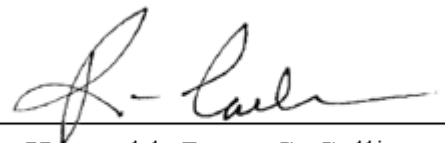
4
5 Plaintiff has failed to fulfill his obligation to counsel by becoming unavailable
6 without explanation. Furthermore, counsel has provided the necessary notice to Plaintiff
7 under the Local Rules to permit withdrawal.

8 Accordingly, **IT IS ORDERED:**

- 9
10 1. Plaintiff’s attorneys’ Motion to Withdraw as Counsel for Plaintiff is GRANTED.
11 (Doc. 79.) Jason Barrat, Michael Zoldan, Jessica Miller, and the Zoldan Law
12 Group, PLLC may withdraw as counsel for Plaintiff Everett Pilkington in the
13 above-referenced matter.
14 2. Plaintiff has until November 11, 2019 to respond to outstanding discovery
15 requests (Docs. 78, 79).
16 3. Plaintiff shall have thirty days from the date of this Order to file a notice to the
17 Court indicating whether he intends to proceed pro se in this matter or hire new
18 counsel. Failure to file the notice shall lead to dismissal of this matter for failure
19 to follow a Court order and failure to prosecute. *See Ferdik v. Bonzelet*, 963
20 F.2d 1258, 1260-61 (9th Cir. 1992).
21 4. All future notices in this matter be mailed to Plaintiff at:

22 Everett Pilkington
23 610 S. 4th Ave. #6
24 Tucson, AZ 85701

25 Dated this 3rd day of October, 2019.

26
27 

28
Honorable Raner C. Collins
Senior United States District Judge