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8 **United States District Court**  
9 **Central District of California**  
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11 MISSION CREEK BAND OF MISSION  
12 INDIANS, ET AL.,

13 Plaintiffs,

14 v.

15 RYAN ZINKE, ET AL.; and DOES 1–10,  
16 Defendants.

Case No. 5:16-cv-00569-ODW(SPx)

**ORDER DENYING, WITHOUT  
PREJUDICE, MOTION TO  
WITHDRAW AS COUNSEL FOR  
PLAINTIFFS [73]**

17  
18 On February 13, 2018, Plaintiffs’ counsel, Maddox | Isaacson | Cisneros LLP  
19 (“Maddox”), moved for leave to withdraw as counsel in this case governed by the  
20 Administrative Procedure Act. (Mot., ECF No. 73.) Maddox seeks to withdraw  
21 because it has been unable to effectively communicate with its clients, rendering it  
22 unable to continue its representation and prepare a motion for summary judgment.  
23 (Mot. 4.)

24 **I. MOTION TO WITHDRAW**

25 Maddox relies on California Rule of Professional Conduct Rule 3-700(C)(1)(d),  
26 which provides for permissive withdrawal of counsel where the client, “renders it  
27 difficult to carry out the employment effectively....”

28 Central District Local Rule 83-2.3 provides:

1 An attorney may not withdraw as counsel except by leave of  
2 court. A motion for leave to withdraw must be made upon  
3 written notice given reasonably in advance to the client and  
4 to all other parties who have appeared in the action. The  
5 motion for leave to withdraw must be supported by good  
6 cause. Failure of the client to pay agreed compensation is  
7 not necessarily sufficient to establish good cause.

8 It also provides that where an attorney represents an organization of any kind, the  
9 attorney “must give written notice to the organization of the consequences of its  
10 inability to appear pro se.” C.D. L.R. 83-2.3.4. This notice requirement is derivative  
11 of Local Rule 83-2.2.2, which provides: “No organization or entity of any other kind  
12 (including corporations, limited liability corporations, partnerships, limited liability  
13 partnerships, unincorporated associations, trusts) may appear in any action or  
14 proceeding *unless represented by an attorney* permitted to practice before this Court  
15 under L.R. 83-2.1.” (emphasis added).

16 In his declaration, Plaintiffs’ counsel testifies that he “provided notice to each  
17 Plaintiff that this Motion would be filed on February 12, 2018.” (Decl. of Norberto  
18 Cisneros (“Cisneros Decl.”) ¶ 5.) On February 15, 2018, Maddox filed a certificate of  
19 service indicating that it served its motion on “Sherry Livingston and Tony Lopez  
20 Mission Creek Band of Mission Indians,” Desiree Salinas, and Carlos Salinas. (Cert.  
21 of Serv., ECF No. 75.) The remaining plaintiffs include: Mission Creek Band of  
22 Mission Indians, Toney Lopez, III, Desiree Salinas, and Carlos Salinas.<sup>1</sup> The  
23 Cisneros Declaration does not explain that counsel notified his client, Mission Creek  
24 Band of Mission Indians, that it was subject to Local Rule 83-2.2.2, or that it would be  
25 required to retain new counsel to continue with this action.

26 In addition to the deficiency concerning notice to Mission Creek Band of  
27 Mission Indians, Cisneros fails to detail the factual basis for withdrawal in his  
28 declaration; instead, the only details regarding his inability to effectively represent his

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<sup>1</sup> On January 19, 2018, the Court dismissed plaintiff Gabriela Lyles without prejudice on stipulation of the parties. (Order, ECF No. 70.)

1 clients appear in the memorandum of points and authorities accompanying this  
2 Motion. Maddox must set forth the factual basis for withdrawal in a declaration made  
3 under penalty of perjury. The Court is mindful of the attorney-client privilege, and  
4 does not imply that counsel should set forth the basis in detail, but an argument in  
5 briefing without a declaration from counsel is insufficient. Accordingly, the Court  
6 **DENIES** Maddox's Motion, without prejudice.

## 7 **II. PENDING DATES AND DEADLINES**

8 On January 31, 2018, the Court continued the briefing schedule relating to the  
9 parties' anticipated dispositive motions. (Order, ECF No. 72.) Plaintiffs' deadline to  
10 move for summary judgment is March 2, 2018. (*Id.*) Given Maddox's desire to  
11 withdraw and the impending deadline to file a motion for summary judgment, the  
12 Court **VACATES** the current briefing schedule. (*Id.*) If Maddox wishes to withdraw  
13 as counsel, it must move to withdraw under the parameters set forth above, and before  
14 **March 2, 2018**. Should Maddox fail to do so, the Court will reinstate a revised  
15 briefing schedule.

## 16 **III. CONCLUSION**

17 For the reasons above, the Court rules, as follows:

- 18 1. Maddox shall serve this Order on its clients and file a proof of service of  
19 the same before **February 28, 2018**;
- 20 2. Maddox may move to withdraw, as outlined above, before **March 2,**  
21 **2018**; and
- 22 3. Should Maddox fail to move to withdraw before March 2, 2018, the  
23 Court will issue another briefing schedule.

24 **IT IS SO ORDERED.**

25 February 20, 2018

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27 **OTIS D. WRIGHT, II**  
28 **UNITED STATES DISTRICT JUDGE**