



1 On August 24, 2010, plaintiff's counsel filed a fully  
2 executed Substitution of Attorney (Doc. 66). On August 27, 2010,  
3 Judge Shubb denied the substitution of attorney deeming, in part,  
4 that, "There is . . . nothing more pending before this court in  
5 this matter." However, since judgment was entered on December  
6 16, 2009, there has been a steady stream of activity filed in  
7 this case.

8 On September 8, 2010, defendants filed a motion to compel  
9 appearance of judgment debtor at deposition in aid of execution  
10 of judgment (Doc. 68), currently set for hearing on November 19,  
11 2010 at 11:00 a.m. before Judge Snyder (Doc. 73). However, on  
12 November 1, 2010, plaintiff's counsel, Kenneth Foley, filed an  
13 Application for Nonappearance at the hearing on November 19, 2010  
14 (Doc. 76), based on plaintiff's typed and signed statement  
15 attached thereto as an exhibit (Doc. 76-1) discharging Mr. Foley  
16 from representing Mr. Wilmshurst in this case effective September  
17 9, 2010. In light thereof, the Court also deems Mr. Foley's  
18 Application for Nonappearance (Doc. 76) as a renewed request to  
19 be relieved as counsel of record for plaintiff (Doc. 66).

20 THEREFORE, IT IS HEREBY ORDERED that:

21 1. Mr. Foley's Application for Nonappearance (Doc. 76) at  
22 the hearing set November 19, 2010 (Doc. 73) is GRANTED.

23 2. Mr. Foley is relieved as the attorney of record for  
24 plaintiff, Richard E. Wilmshurst, based on plaintiff's typed and  
25 signed statement attached as an exhibit to the Application (Doc.  
26 76-1).

27 3. The Clerk's Office terminate Mr. Foley as the attorney  
28 of record for plaintiff.

