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2 UNITED STATES DISTRICT COURT
3 EASTERN DISTRICT OF CALIFORNIA
4

5 HOWARD L. JOHNSON,

6 Plaintiff,

7 v.

8 CALIFORNIA DEPARTMENT OF
9 CORRECTIONS AND
10 REHABILITATIONS (CDCR), et
11 al.,

12 Defendants.

1:09-CV-00502-OWW-SMS

ORDER GRANTING MOTION TO
WITHDRAW

13 On June 3, 2009, Norman Newhouse, Esq., of the Law Office of
14 Norman Newhouse, filed a motion to withdraw as counsel of record
15 for Plaintiff Howard L. Johnson. (Doc. 37.) According to the
16 declaration of counsel, the "[c]lient and attorney have reached an
17 impasse in proceeding with the case" and there is an "inability to
18 communicate due to differing opinions about handling the case."
19 (Doc. 38 at 1.) The client, Mr. Johnson, has been notified and he
20 does not object to his counsel's withdrawal. Mr. Newhouse has also
21 notified the parties of his motion to withdraw (Doc. 37; Doc. 38 at
22 3), and they have not objected.

23 An attorney may not withdraw as counsel, leaving a plaintiff
24 to act *in propria persona*, except by leave of court. See Local
25 Rule 83-182 (d); *Darby v. City of Torrance*, 810 F. Supp. 275, 276
26 (C.D. Cal. 1992).

27 Local Rule 83-182(d) provides:

28 Subject to the provisions of subsection (c), an attorney
who has appeared may not withdraw leaving the client in

1 *propria persona* without leave of Court upon noticed
2 motion and notice to the client and all other parties who
3 have appeared. The attorney shall provide an affidavit
4 stating the current or last known address or addresses of
5 the client and the efforts made to notify the client of
6 the motion to withdraw. Withdrawal as attorney is
7 governed by the Rules of Professional Conduct of the
8 State Bar of California, and the attorney shall conform
9 to the requirements of those Rules. The authority and
10 duty of the attorney of record shall continue until
11 relieved by order of the Court issued hereunder. Leave to
12 withdraw may be granted subject to such appropriate
13 conditions as the Court deems fit.

14 In determining whether there is good cause for withdrawal,
15 courts have considered whether the client is cooperative and
16 willing to assist the attorney in the case. See, e.g., *Whiting v.*
17 *Lacara*, 187 F.3d 317, 321 (2d Cir. 1999).

18 Even where good cause exists, certain other factors can be
19 considered. See *In re Tutu Wells Contamination Litig.*, 164 F.R.D.
20 41, 44 (D.V.I. 1995). For example, the court may consider: the
21 extent to which withdrawal will disrupt the case; how long the case
22 has been pending; the financial burden the client will face in
23 finding new counsel; prejudice to the other parties; and whether
24 withdrawal will harm the administration of justice. See *Byrd v.*
25 *Dist. of Columbia*, 271 F. Supp. 2d 174, 176 (D.D.C. 2003); *United*
26 *States ex rel. Cherry Hill Convalescent Ctr., Inc. v. Healthcare*
27 *Rehab Sys., Inc.*, 994 F. Supp. 244, 252-53 (D.N.J. 1997).

28 According to Mr. Newhouse, he and his client, Mr. Johnson,
have reached an impasse, have differing opinions about the handling
of the case, and are unable to communicate. A declaration from Mr.
Johnson indicates that Mr. Newhouse and Mr. Johnson actually work
together in the law office of Mr. Newhouse where Mr. Johnson is the
Staff Paralegal. (Doc. 57 at 1.) In his own declaration, Mr.
Johnson (the client), states the "the law office of Norman

1 Newhouse. . . is small and overwhelmed with cases it is currently
2 working" and Mr. Johnson represents that he "is the most
3 knowledgeable person able to present this case." (Id.)
4 Accordingly, Mr. Johnson states that he would like to "take on this
5 case Pro Per." (Id.)

6 After reviewing the record and the reasons for withdrawal
7 given by counsel, good cause to grant the motion to withdraw has
8 been established by reason of the inability of counsel and client
9 to communicate effectively with each other. The motion to withdraw
10 is GRANTED.

11
12
13 IT IS SO ORDERED.

14 Dated: August 6, 2009

/s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE