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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

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GENERAL ELECTRIC CAPITAL CORPORATION; CEF FUNDING II, L.L.C. and CEF FUNDING V, LLC,

NO. CIV. S-09-3296 FCD/DAD

Plaintiffs,

v.

MEMORANDUM AND ORDER

TEN FORWARD DINING, INC.; DELIGHTFUL DINING, INC.; TGIA RESTAURANTS, INC.; KOBRA RESTAURANT PROPERTIES, L.L.C.; ABOLGHASSEM ALIZADEH; THE MECHANICS BANK; EQUITY LENDERS, LLC; APEX PROPERTY ADVISORS INC.; KEY REAL ESTATE EQUITY CAPITAL, INC.; COUNTRY OF SACRAMENTO DEPARTMENT OF PUBLIC WORKS ADMINISTRATION; STATE OF CALIFORNIA EMPLOYMENT DEVELOPMENT DEPARTMENT; UNITED STATES OF AMERICA; CITY OF CITRUS HEIGHTS; CITY OF ELK GROVE; CITY OF REDDING; CITY OF GRASS VALLEY; COUNTY OF PLACER; COUNTY OF SACRAMENTO; COUNTY OF SHASTA; COUNTY OF NEVADA, AND DOES 1 - 100, INCLUSIVE,

Defendants.

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2 This matter comes before the court on the motion of  
3 plaintiffs General Electric Capital Corporation, CEF Funding II,  
4 L.L.C., and CEF Funding V, LLC (collectively, "plaintiffs" or  
5 "GE") to strike the answer of defendants Ten Forward Dining, Inc.  
6 ("Ten Forward"), Delightful Dining, Inc. ("Delightful Dining"),  
7 and TGIA Restaurants, Inc. ("TGIA") (collectively, the "corporate  
8 defendants"). Plaintiffs request that the corporate defendants'  
9 answer to the complaint be stricken as a sanction for the failure  
10 to obtain counsel to defend themselves in this action. No  
11 opposition to plaintiffs' motion has been filed. For the reasons  
12 set forth below,<sup>1</sup> plaintiffs' motion to strike is GRANTED.

13 **BACKGROUND**

14 In November 2009, plaintiffs filed this action against a  
15 number of defendants as a means of redress for alleged breach of  
16 loan documents. (Compl. [Docket #1], filed Nov. 25, 2009). The  
17 corporate defendants, along with defendants Kobra Restaurant  
18 Properties, LLC ("Kobra Restaurant") and Abolghassem Alizadeh  
19 ("Alizadeh"), filed an answer in January 2010 through counsel,  
20 Patricia Lee. (Answer [Docket #11], filed Jan. 11, 2010). In  
21 October 2010, Patricia Lee filed a Motion to Withdraw as  
22 Attorney. (Mot. to Withdraw [Docket #60], filed Oct. 15, 2010).  
23 On October 29, 2010, the court granted the motion to withdraw and  
24 informed defendants that corporations cannot appear in the action  
25 without legal counsel. (Order [Docket #64], filed Oct. 29,

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<sup>1</sup> Because oral argument will not be of material  
28 assistance, the court orders this matter submitted on the briefs.  
E.D. Cal. Local Rule 230(g).

1 2010). The court directed defendant corporations to retain  
2 alternate counsel within 30 days of the court order. (Id.)

3 In May 2011, the court permitted defendants Kobra Restaurant  
4 and Alizadeh to substitute Paul Anthony Warner as their attorney  
5 of record. (Order, [Docket ##70-71], filed May 13, 2011).

6 However, the corporate defendants have yet to retain alternate  
7 counsel, despite the court's order directing them to do so.

8 (Pl.'s Mot. to Strike [Docket #72], filed May 24, 2011, at 4).

9 **ANALYSIS**

10 Plaintiffs move to strike the corporate defendants answer as  
11 a sanction for their failure to retain alternate counsel in  
12 accordance with the court order.

13 "It is a longstanding rule that [c]orporations and other  
14 unincorporated associations must appear in court through an  
15 attorney." D-Beam Ltd. P'ship v. Roller Derby Skates, Inc., 366  
16 F.3d 972, 973-74 (9th Cir. 2004) (citation and quotation marks  
17 omitted, second modification in original); E Dist. Local Rule  
18 183(a). Further, a court may sanction corporate defendants by  
19 striking their answer when they fail to retain counsel to defend  
20 themselves. See Galtieri-Carlson v. Victoria M. Morton Enters.,  
21 Inc., No. 2:08-cv01777, 2010 WL 3386473, at \*3 (E.D. Cal. Aug.  
22 26, 2010) (sanctioning corporate defendants by striking their  
23 answer when they failed to retain alternate counsel after the  
24 withdrawal of their original counsel); Rojas v. Hawqs Seafood  
25 Bar, Inc., No. C08-03819, 2009 WL 1255538, at \*1 (N.D. Cal. May  
26 5, 2009) ("When a corporation fails to retain counsel to  
27 represent it in an action, its answer may be stricken").

1 Pursuant to the local rule and applicable case law, the  
2 corporate defendants may not appear in this case without counsel.  
3 The corporate defendants' original counsel withdrew in October  
4 2010, and the corporate defendants have failed to retain  
5 alternate counsel since that date. This inaction is in direct  
6 violation of the court's order. As such, the corporate  
7 defendants' answer is stricken.

8 **CONCLUSION**

9 Accordingly, for the foregoing reasons, plaintiffs' motion  
10 to sanction the corporate defendants by striking their answer is  
11 GRANTED.

12 IT IS SO ORDERED.

13 DATED: June 22, 2011.

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16 FRANK C. DAMRELL, Jr.  
17 UNITED STATES DISTRICT JUDGE  
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