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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

AT&T MOBILITY LLC,

Plaintiffs,

v.

GENERAL CHARLES E. "CHUCK"
YEAGER (RET.); ED BOWLIN; CONNIE
BOWLIN; AVIATION AUTOGRAPHS;
BOWLIN & ASSOCIATES, INC.; LAW
OFFICES OF JOANNA R. MENDOZA,
P.C.; DE LA PENA & HOLIDAY, LLP;
LESSER LAW GROUP,

Defendants,

AND RELATED CROSS-CLAIMS.

No. 2:13-cv-00007-KJM-DB

ORDER

One of several motions contesting certain filings of defendant-intervenor Mrs. Victoria Yeager is before the court. Parsons Behle & Latimer, PLC ("PB&L"), plaintiff-intervenor, moves to strike Mrs. Yeager's Answer and Cross-Complaint. Mot., ECF No. 278; Mem., ECF No. 278-1. Mrs. Yeager opposes. Opp'n, ECF No. 294. The court submitted the matter without a hearing on October 31, 2016. Mins., ECF No. 305. As discussed below, the court GRANTS PB&L's motion.

1 I. BACKGROUND

2 The court has outlined the facts and procedural history of this case in prior orders
3 and so limits this background section to the information relevant to understanding the instant
4 motion.

5 In 2007, General Yeager sued AT&T Mobility, LLC (“AT&T”) and others for
6 unjustly enriching themselves by using his name, without his permission, to promote their
7 products. *Yeager v. AT&T Mobility, LLC*, No. 07-2517 (E.D. Cal. filed Nov. 21, 2007). At trial
8 in 2012, General Yeager was represented by PB&L; he prevailed in part and was awarded
9 damages, costs and fees. *See* Case No. 07-2517, ECF Nos. 227, 270. In January 2013, AT&T
10 deposited the combined award with the court and filed this interpleader case, noting several
11 people had come forward with competing claims to these funds. ECF No. 1. In April 2014, the
12 court granted PB&L’s request to intervene to assert a claim for \$106,408.53 of the deposited
13 funds based on General Yeager’s allegedly unpaid legal fees. ECF No. 91 (order granting
14 intervention); ECF No. 93 (PB&L Complaint). In June 2014, General Yeager answered PB&L’s
15 complaint-in-intervention and asserted affirmative defenses against PB&L. ECF No. 95.

16 In March 2015, this court granted Mrs. Yeager a limited right to intervene in the
17 interpleader action on her own behalf. Order, ECF No. 164. The court expressly forbade her
18 from speaking for General Yeager or asserting claims on General Yeager’s behalf. *Id.* at 6. In
19 December 2015, after a hearing regarding General Yeager’s competency to proceed with
20 litigation, the court appointed James E. Houpt as General Yeager’s guardian ad litem. Order Dec.
21 28, 2015, ECF No. 227. Over a year later, Mrs. Yeager moved to broaden her intervention rights
22 to assert claims and defenses on General Yeager’s behalf as well. ECF No. 248. She based her
23 request on a written “assignment” of General Yeager’s rights and interests. *Id.* The court granted
24 Mrs. Yeager’s intervention request, but only to protect rights and interests General Yeager
25 expressly assigned to her; namely, rights and interests pertaining to “[General Yeager’s] name,
26 image, and trademarks as it relates to his claims and causes of action against and by AT&T.”
27 Intervention Order, ECF No. 263, at 5 (filed Aug. 12, 2016); *see also* Assignment, Ex. A, ECF
28 No. 222 at 4. Three months later the court dismissed General Yeager from this action without

1 prejudice, deeming Mrs. Yeager his substitute; at the same time the court relieved Mr. Houpt as
2 guardian ad litem. Substitution Order, ECF No. 306 (“[Mrs. Yeager] steps into General Yeager's
3 shoes from the date of this order forward.”).

4 Mrs. Yeager then filed answers and cross-complaints against multiple parties. *See*
5 ECF Nos. 270, 271. As relevant here, one of her filings was another answer to PB&L’s
6 complaint-in-intervention, which asserted three cross-claims against PB&L. Answer, ECF No.
7 271, at 5-11; Cross-Compl., ECF No. 271, at 1-5. PB&L moves to strike this new filing as
8 beyond the permissible scope of Mrs. Yeager’s intervention. PB&L Mem. at 5-13.

9 II. LEGAL STANDARD

10 A district court may “strike from a pleading . . . any redundant, immaterial,
11 impertinent, or scandalous matter.” Fed. R. Civ. P. 12(f); *Whittlestone, Inc. v. Handi-Craft Co.*,
12 618 F.3d 970, 973 (9th Cir. 2010) (“The function of a 12(f) motion to strike is to avoid the
13 expenditure of time and money that must arise from litigating spurious issues by dispensing with
14 those issues prior to trial[.]”) (citations and quotation marks omitted).

15 The court may also strike filings and pleadings under its “inherent power to control
16 [its] docket.” *Atchison, Topeka & Santa Fe Ry. v. Hercules, Inc.*, 146 F.3d 1071, 1074 (9th Cir.
17 1998) (citation and quotations marks omitted); *Lazy Y Ranch Ltd. v. Behrens*, 546 F.3d 580, 586-
18 88 (9th Cir. 2008) (discussing district court’s ability to strike exhibits to a motion); *Hambleton*
19 *Bros. Lumber Co. v. Balkin Enters., Inc.*, 397 F.3d 1217, 1224-26 (9th Cir. 2005) (affirming
20 district court’s decision to strike deposition corrections and a declaration); *cf. Carrigan v. Cal.*
21 *State Legislature*, 263 F.2d 560, 564 (9th Cir. 1959) (discussing inherent power to strike briefs
22 and pleadings that are “scandalous, impertinent, scurrilous, and/or without relevancy”).

23 It is “universally acknowledged” that courts may exercise this inherent power as
24 “necessary to the exercise of all others,” including the “power to impose silence, respect, and
25 decorum.” *Chambers v. NASCO, Inc.*, 501 U.S. 32, 43 (1991) (citations and quotation marks
26 omitted). This inherent power is “governed not by rule or statute but by the control necessarily
27 vested in courts to manage their own affairs so as to achieve the orderly and expeditious
28 disposition of cases,” *id.* (citing *Link v. Wabash R. Co.*, 370 U.S. 626, 630-31 (1962)).

1 III. DISCUSSION

2 A. Answer

3 Mrs. Yeager's additional Answer to PB&L's complaint will be stricken. Nothing
4 in this court's intervention or substitution orders permitted Mrs. Yeager to file additional
5 pleadings, either on her own behalf or on General Yeager's behalf. By not filing a complaint-in-
6 intervention, Mrs. Yeager limited her intervention request to existing pleadings; granting her
7 request thus did not signal an opportunity to litigate new claims and raise new affirmative
8 defenses. *See generally* Intervention Order. Also, by subsequently substituting Mrs. Yeager and
9 granting her the right to step into General Yeager's shoes for all remaining purposes, the court
10 expressly bound Mrs. Yeager to General Yeager's prior decisions and filings. Substitution Order
11 at 1.

12 To ensure intervenors remain within the permissible scope of intervention, Federal
13 Rule of Civil Procedure 24 requires intervention motions to "be accompanied by a complaint in
14 intervention "that sets out the claim or defense for which intervention is sought." Fed. R. Civ. P.
15 24(c); *Landry's, Inc. v. Sandoval*, No. 2:15-cv-01160-GMN-PAL, 2016 WL 1239254, at *3
16 (D. Nev. Mar. 28, 2016). Without such a complaint, a court generally grants intervention only
17 when the purpose of intervention is to stand on the existing pleadings. *Landry's*, 2016 WL
18 1239254, at *3. *See, e.g., Beckman Indus., Inc. v. Int'l Ins. Co.*, 966 F.2d 470, 474 (9th Cir. 1992)
19 (noting intervention motions have been approved without a pleading when the motion sufficiently
20 apprised the court of the grounds for intervention); *Bushansky v. Armacost*, No. 12-CV-01597-
21 JST, 2014 WL 5335255, at *2 (N.D. Cal. Oct. 17, 2014) (permitting a party to intervene without
22 filing a proposed pleading when the intervenor adopted the existing pleadings); *Munoz v. PHH*
23 *Corp.*, No. 1:08-CV-0759-AWI-BAM, 2013 WL 3935054, at *5 (E.D. Cal. July 29, 2013) ("If
24 the intervenor is content to stand on the pleading an existing party has filed, it is difficult to see
25 what is accomplished by adding to the papers in the case a new pleading that is identical.")
26 (citation omitted).

27 Here, the court granted Mrs. Yeager a limited right to step into General Yeager's
28 shoes and vindicate the specific rights assigned to her. At the time, General Yeager had answered

1 PB&L's complaint more than two years earlier, while he was still legally competent to do so.
2 ECF No. 95 (filed June 10, 2014); *see also* Order, ECF No. 85 (discussing in May 2015 initial
3 concerns as to General Yeager's competency). Mrs. Yeager did not request and was never
4 granted the right to file another answer to PB&L's complaint. *See Summit Canyon Res., LLC v.*
5 *Barker*, No. 215CV2167JADGWF, 2016 WL 740420, at *2 (D. Nev. Feb. 23, 2016) (internal
6 quotation marks, footnotes, and alterations omitted) (quoting *In re Bernal*, 207 F.3d 595, 598 (9th
7 Cir. 2000)) (substituted defendant bound by substituted-for defendant's prior decision); *see also*
8 *Collateral Control Corp. v. Deal*, 638 F.2d 1362, 1364 (5th Cir.1981) ("[the rule permitting party
9 substitution] is not designed to create new relationships among parties to a suit but is designed to
10 allow the action to continue unabated when an interest in the lawsuit changes hands.").

11 Accordingly, the court STRIKES this additional Answer from the record.

12 B. Cross-Complaint

13 Citing the same rationale, PB&L moves to strike Mrs. Yeager's Cross-Complaint.
14 As explained above, Mrs. Yeager's substitution into this case did not give her free reign to file
15 additional pleadings on General Yeager's behalf; rather she is bound by his former filings. Also,
16 her cross-claims exceed her circumscribed intervention rights. She includes cross-claims for
17 professional negligence, legal malpractice and breach of fiduciary duty based on PB&L's
18 representation of the Yeagers in the underlying 2007 case referenced above. Cross-Compl. at 8.
19 Not one of the cross-claims concerns General Yeager's "rights and interests in his name, image,
20 and trademarks as it relates to claims and causes of action against and by AT&T." Assignment at
21 1. That *Yeager v. AT&T* pertained to this general topic of no moment. The claims Mrs. Yeager
22 now asserts are not "against or by AT&T."

23 Even if the court found the claimed rights related to Mrs. Yeager's assigned rights,
24 the rights she seeks to vindicate by her cross-claims still exceed the scope of intervention because
25 General Yeager could not legally assign those rights to anybody. California law governs the
26 Assignment. *See id.* at 4 (stating California law governs). Under California law, claims for
27 malpractice, professional negligence and breach of fiduciary duty arising out of the attorney-
28 client relationship are generally non-assignable. *See Musser v. Provencher*, 28 Cal. 4th 274, 287

1 (2002) (discussing policy rationales for deeming legal malpractice claims non-assignable);
2 *Goodley v. Wank & Wank, Inc.*, 62 Cal. App. 3d 389, 396-97 (1976) (“An attorney has but one
3 intended beneficiary, his client[.]”) (citation omitted). Mrs. Yeager’s cross-claims derive from
4 PB&L’s representation of General Yeager in *Yeager v. AT&T*. Because PB&L represented only
5 General Yeager and not Mrs. Yeager in that case, General Yeager could not assign to Mrs.
6 Yeager the rights she now claims she has. *See* Letter of Representation, Ex. B, ECF No. 278-4.¹
7 Mrs. Yeager’s cross-claims will be stricken.

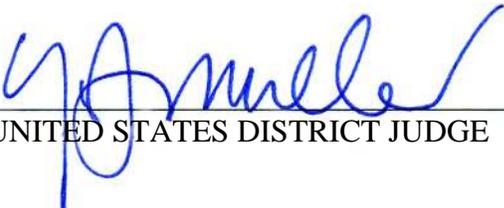
8 IV. CONCLUSION

9 Mrs. Yeager’s Answer and Cross-Complaint contained within ECF No. 271
10 exceed the limited filing rights this court afforded her both as an intervenor and as General
11 Yeager’s substitute. No amendment could bring her claims and defenses within the scope.
12 Accordingly, exercising its “inherent power to control [its] docket,” the court STRIKES this
13 filing, with prejudice. *Atchison*, 146 F.3d at 1074.

14 IT IS SO ORDERED

15 This resolves ECF No. 278.

16 DATED: November 7, 2017.

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UNITED STATES DISTRICT JUDGE

¹ Although the letter references the law firm “Zarian Midgley & Johnson, PLLC,” that firm has since merged with PB&L, and so for this analysis only, the firm names are synonymous.