

1 **I. FACTUAL AND PROCEDURAL BACKGROUND**

2 On May 5, 2018, Plaintiff engaged Finkelstein & Krinsk (hereinafter, “Plaintiff’s
3 counsel”) to represent her in this wage and hour case against Defendant Challenge Security
4 Services, Inc. (“Defendant”). (ECF No. 10-1 at 2.) Plaintiff filed the Complaint on May 24,
5 2018. (ECF No. 1.) Defendant did not respond to the summons, and Plaintiff’s counsel filed an
6 entry of default on October 4, 2018. (ECF No. 6.) Plaintiff’s counsel attempted to contact
7 Plaintiff multiple times between October 2018 and April 2019 to gather information needed to
8 file a motion for default judgment. (ECF No. 10-1 at 2.) Plaintiff did not respond. (ECF No. 10-
9 2 at 3.)

10 Accordingly, Plaintiff’s counsel filed the instant motion to withdraw on May 6, 2019.
11 (ECF No. 10.) As of the filing of this motion, Plaintiff had not identified or appointed new
12 counsel. Plaintiff has not formally objected to the termination of the attorney-client relationship,
13 and she has not filed an opposition to this motion. No trial date has been set in this case.

14 **II. STANDARD OF LAW**

15 The local rules of this district require an attorney who would withdraw and leave his or
16 her client without representation to obtain leave of the court upon a noticed motion. E.D. Cal.
17 L.R. 182(d). Local Rule 182(d) also requires an attorney to provide notice to the client and all
18 other parties who have appeared, and an affidavit stating the current or last known address of the
19 client. Finally, to comply with Local Rule 182(d), the attorney must conform to the requirements
20 of the California Rules of Professional Conduct. *Id.*

21 California Rule of Professional Conduct 3-700 provides several grounds upon which an
22 attorney may seek to withdraw, including where the client’s conduct has “render[ed] it
23 unreasonably difficult for the member to carry out the employment effectively.” Cal. R. Prof.
24 Conduct 3-700(C)(1)(d).

25 The decision to grant or deny a motion to withdraw is within a court’s discretion.
26 *McNally v. Eye Dog Found. for the Blind, Inc.*, No. 09-cv-AWI-SKO-01174, 2011 WL 1087117,
27 at *1 (E.D. Cal. Mar. 24, 2011). District courts within this circuit have considered several factors
28 when evaluating a motion to withdraw, including the reason for withdrawal, prejudice to the

1 client, prejudice to the other litigants, harm to the administration of justice, and possible delay.
2 See, e.g., *Deal v. Countrywide Home Loans*, No. 09-cv-01643-SBA, 2010 WL 3702459, at *2
3 (N.D. Cal. Sept. 15, 2010); *CE Res., Inc. v. Magellan Group, LLC*, No. 08-cv-02999-MCE-KJM,
4 2009 WL 3367489, at *2 (E.D. Cal. Oct. 14, 2009); *Beard v. Shuttermart of Cal., Inc.*, No. 07-cv-
5 00594-WQH-NLS, 2008 WL 410694, at *2 (S.D. Cal. Feb. 13, 2008).

6 **III. ANALYSIS**

7 Plaintiff's counsel moves to withdraw due to its inability to contact Plaintiff since October
8 18, 2018. (ECF No. 10-2 at 2.) It argues that it made numerous efforts to contact Plaintiff with
9 no response and has exhausted all viable options. (ECF No. 10-2 at 2–3.)

10 More specifically, Plaintiff's counsel attempted to contact Plaintiff on October 18, 2018,
11 using a phone number and email that previously worked to contact Plaintiff. (ECF No. 10-2 at 2.)
12 The phone number was disconnected, and the email went unanswered. (ECF No. 10-2 at 2.)
13 Plaintiff's counsel made two other attempts to contact Plaintiff on January 18, 2019, and January
14 22, 2019, but the phone number was still disconnected, and Plaintiff did not answer the emails.
15 (ECF No. 10-2 at 2.) Plaintiff's counsel sent another email to Plaintiff on March 18, 2019, and
16 the email was returned as undeliverable. (ECF No. 10-2 at 2.) Plaintiff's counsel made efforts to
17 find another phone number to reach Plaintiff, but the alternative phone number found through an
18 internet search did not belong to Plaintiff. (ECF No. 10-2 at 2.) Plaintiff's counsel sent emails
19 and letters on April 9, 2019, and April 22, 2019, giving Plaintiff notice that it would withdraw as
20 her counsel if she did not respond. (ECF No. 10-2 at 2–3.) Plaintiff did not respond. (ECF No.
21 10-2 at 2–3.) Accordingly, good cause is shown for Plaintiff's counsel to withdraw.

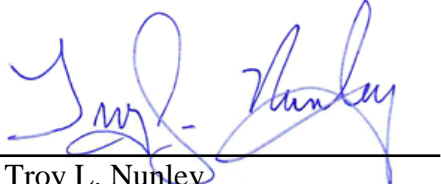
22 The Court next must determine whether there is risk of prejudice to Plaintiff if the motion
23 is granted. Plaintiff's counsel provided Plaintiff with notice of its intent to withdraw. (ECF No.
24 10-2 at 2–3.) Further, Plaintiff's counsel thoroughly documented its attempts to contact Plaintiff.
25 (ECF No. 10-2 at 2–3.) Finally, Plaintiff's counsel has provided complete contact information to
26 Plaintiff and served advance written notice to Plaintiff. (ECF No. 10-3 at 1–2.) Plaintiff has not
27 filed any written objection to this motion. Therefore, the Court finds the risk of prejudice to
28 Plaintiff is minimal.

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IV. CONCLUSION

For the reasons set forth above, the Motion to Withdraw is GRANTED. (ECF No. 10).

Dated: January 15, 2020



Troy L. Nunley
United States District Judge