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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MARTIN GARDNER REIFFIN,

No. C 98-00266 WHA

Plaintiff,

v.

MICROSOFT CORPORATION,

Defendant.

**ORDER STRIKING
MOTION TO VACATE
SUMMARY JUDGMENT
AND ADVANCING
HEARING ON MOTION TO
WITHDRAW AS COUNSEL**

Plaintiff Martin Gardner Reiffin is represented by Attorneys Norman H. Beamer and Jesse J. Jenner of Ropes & Gray LLP, as well as Attorney Joseph L. Spiegel of Spiegel Brown Fichera & Acard LLP. When a party is represented by an attorney, the attorney and only the attorney speaks for the party. Mr. Reiffin himself, however, has made a series of filings labeled *pro se*, including a Rule 60 motion to vacate summary judgment. This procedure is improper. Accordingly, the motion to vacate summary judgment and Mr. Reiffin's related *pro se* filings are **STRICKEN FROM THE RECORD** and **DENIED**. Specifically, the Clerk shall strike the following docket entries: Docket Numbers 628, 629, 630, 634, 635, 637, and 640. The denial is without prejudice to the motion being re-filed according to correct procedures.

Relatedly, Attorneys Beamer and Jenner have requested leave to withdraw as counsel for Mr. Reiffin. They represent that their client "has discharged the firm from its representation of plaintiff in this matter" (Dkt. Nos. 632, 638). Mr. Reiffin filed a response to this request, but it

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did not indicate whether he opposed or acquiesced. Instead, it explained how Mr. Reiffin viewed the withdrawal motion as supporting the fraud theory underlying his Rule 60 motion (Dkt. No. 638).

The hearing on counsel’s motion to withdraw is hereby advanced to **2:00 P.M. ON MAY 26, 2011**. All three of Mr. Reiffin’s attorneys of record must attend. Mr. Reiffin himself also must attend. Additionally, counsel for defendant must attend. Attorney Spiegel or defendant’s counsel may (but are not required to) file a statement in response to the motion to withdraw by **NOON ON MAY 23, 2011**.

Finally, the hearing on defendant’s motion for attorney’s fees remains set for June 2.

IT IS SO ORDERED.

Dated: May 12, 2011.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE