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

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|-------------------------------|---|-----------------------------------|
| ANDREA WIRUM, Trustee in |) | Case No. 10-1561 SC |
| Bankruptcy of the Estate of |) | |
| PLUSFIVE HOLDINGS, L.P., |) | ORDER GRANTING |
| |) | <u>MOTION TO SUBSTITUTE PARTY</u> |
| Plaintiff, |) | |
| |) | |
| v. |) | |
| |) | |
| 0713401 B.C. Ltd., a foreign |) | |
| entity, and SHARRIE CUTSHALL, |) | |
| |) | |
| Defendants. |) | |
| |) | |

Now before the Court is a motion by Plaintiff Andrea Wirum, Trustee in Bankruptcy for PlusFive Holdings, L.P. ("PlusFive Holdings"), to substitute PlusFive Claims, LLC ("PlusFive Claims") as the Plaintiff in this action. ECF No. 5 ("Mot."). Defendants 0713401 B.C. Ltd. and Sharrie Cutshall ("Defendants") have not filed a response to this Motion.

PlusFive Holdings' suit arises out of its pending bankruptcy proceeding. No. 06-10307 (Bankr. N.D. Cal.). PlusFive Holdings claims that Defendants are alter egos that jointly owe it money in unpaid promissory notes. ECF No. 1 ("Compl.") ¶¶ 10, 20. PlusFive Holdings now seeks to substitute PlusFive Claims as the Plaintiff in this action, and attach in support of their Motion an order by U.S. Bankruptcy Judge Alan Jaroslovsky authorizing PlusFive Holdings to assign its claims against Defendants to PlusFive

United States District Court
For the Northern District of California

1 Claims. Order Authorizing Sale of Intangible Assets, No. 06-10307
2 (Bankr. N.D. Cal. May 4, 2010), ECF No. 6-1.

3 PlusFive Holdings makes this Motion pursuant to Rule 25(c) of
4 the Federal Rules of Civil Procedure, which provides: "If an
5 interest is transferred, the action may be continued by or against
6 the original party unless the court, on motion, orders the
7 transferee to be substituted in the action or joined with the
8 original party. The motion must be served as provided in Rule
9 25(a)(3)." Rule 25(a)(3) states: "A motion to substitute, together
10 with a notice of hearing, must be served on the parties as provided
11 in Rule 5 and on nonparties as provided in Rule 4." On June 9,
12 2010, PlusFive Holdings served Defendants with its Complaint,
13 Summons, and Motion to Substitute -- which included a notice of
14 hearing -- and it has filed a Proof of Service with the Court. ECF
15 No. 8 ("Proof of Service").

16 Because PlusFive Holdings has complied with Rule 25(c), the
17 Court GRANTS its Motion to Substitute. Andrea Wirum, Trustee in
18 Bankruptcy for PlusFive Holdings, L.P., shall be removed as
19 Plaintiff. PlusFive Claims, LLC, shall be added as Plaintiff.
20 PlusFive Claims, LLC, shall serve this Order on Defendants 0713401
21 B.C. Ltd. and Sharrie Cutshall and file with the Court a Proof of
22 Service within five (5) days of this Order.

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IT IS SO ORDERED.

Dated: August 25, 2010


UNITED STATES DISTRICT JUDGE