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UNITED STATES DISTRICT COURT
For the Northern District of California

UNITED STATES DISTRICT COURT
Northern District of California
San Francisco Division

MICHAEL BEAL, et al.,

No. C 13-04911 LB

Plaintiffs,

ORDER (1) CONTINUING THE HEARING ON DEFENDANTS' COUNSEL'S MOTION TO WITHDRAW AND (2) DIRECTING DEFENDANTS' PERSONAL APPEARANCES AT IT

v.

ROYAL OAK BAR, et al.,

Defendants.

[Re: ECF Nos. 25, 38, 39]

Defendants Royal Oak Bar and Ares Papageorge (collectively, "Defendants") are represented by attorney Russell Robinson. On April 7, 2014, Mr. Robinson moved to withdraw as Defendants' counsel because his relationship with his clients is "in shambles." Motion to Withdraw, ECF No. 25 at 2.¹ He says that Katherine Papageorge, the owner of the Royal Oak Bar, "is trying," through him, "to practice law without a license." *Id.* And he says that he "has expressly been instructed not to perform any further work on behalf of" Mr. Papageorge. *Id.* at 3.

As the court stated in its April 28, 2014 order, under Civil Local Rule 11-5(a), "[c]ounsel may not withdraw from an action until relieved by order of Court after written notice has been given reasonably in advance to the client and to all other parties who have appeared in the case." The

¹ Citations are to the Electronic Case File ("ECF") with pin cites to the electronic page number at the top of the document, not the pages at the bottom.

1 local rules further provide that if the client does not consent to the withdrawal and no substitution of
2 counsel is filed, the motion to withdraw shall be granted on the condition that all papers from the
3 court and from the opposing party shall continue to be served on that party's current counsel for
4 forwarding purposes until the client appears by other counsel or *pro se* if the client is not a corporate
5 defendant. N.D. Cal. Civ. L.R. 11-5(b).

6 Withdrawal is governed by the California Rules of Professional Conduct. *See Nehad v.*
7 *Mukasey*, 535 F.3d 962, 970 (9th Cir. 2008) (applying California Rules of Professional Conduct to
8 attorney withdrawal); *j2 Global Commc'ns, Inc. v. Blue Jay, Inc.*, No. C 08-4254 PHJ, 2009 WL
9 464768, at *1 (N.D. Cal. Feb. 24, 2009) (citation omitted). California Rule of Professional Conduct
10 3-700(C) sets forth several grounds under which an attorney may request permission to withdraw.
11 *See* Cal. Rules of Prof'l Conduct R. 3-700(C).

12 The decision to grant or deny a motion to withdraw is discretionary with the court, and the court
13 can use "its discretion to deny an attorney's request to withdraw where such withdrawal would work
14 an injustice or cause undue delay in the proceeding." *Gong v. City of Alameda*, No. C 03-05495
15 TEH, 2008 WL 160964, at *1 (N.D. Cal. Jan. 8, 2008) (*citing Mandel v. Superior Court*, 67 Cal.
16 App. 3d 1, 4 (1977)) (holding there was no prejudice or undue delay to client where counsel
17 provided sufficient notice of its intent to withdraw and where no trial date had yet been set in the
18 case).

19 The court appraised counsel and the parties of these legal standards in its April 28, 2014 Order
20 and ordered Mr. Robinson, Mr. Papageorge, and Ms. Papageorge to appear at the hearing on Mr.
21 Robinson's motion in person. *See* 4/2/2014 Order, ECF No. 36. The court also notified the parties
22 that they should be prepared to discuss their mandatory appearances at the May 27, 2014 settlement
23 conference before Judge Cousins. *See id.*

24 A few days before the scheduled hearing, Mr. Robinson filed two declarations, which, in short,
25 say that Ms. Papageorge is in Greece, will not be returning to the United States until early June
26 2014, and will not be appearing at either the May 15, 2014 hearing on Mr. Robinson's motion or the
27 May 27, 2014 settlement conference before Judge Cousins. *See* 5/11/2014 Declaration, ECF No. 38;
28 5/13/2014 Declaration, ECF No. 39.

1 The issues this order to make a few things clear. First, the parties' participation in alternative
2 dispute resolution—in this case, the settlement conference with Judge Cousins—is mandatory.
3 Second, the court has ordered Mr. Robinson, Mr. Papageorge, and Ms. Papageorge to appear in
4 person at the hearing on Mr. Robinson's motion. This is not a mere suggestion. The parties must
5 comply with all orders of this court. Third, if either Mr. Papageorge or Ms. Papageorge do not
6 appear at either the hearing on Mr. Robinson's motion or the settlement conference, they face
7 several consequences. One consequence is that the court may sanction them. Another consequence
8 is their answers to Plaintiffs' First Amended Complaint may be stricken and default may be entered
9 against them, after which Plaintiffs will be invited to move for default judgment. Defendants should
10 consider themselves warned.

11 Given, however, that Ms. Papageorge apparently will not be in the United States until early June,
12 the court **CONTINUES** the hearing on Mr. Robinson's motion to withdraw to 9:30 a.m. on **June 19,**
13 **2014** in Courtroom C, 15th Floor, United States District Court, 450 Golden Gate Avenue, San
14 Francisco, California, 94102. Once again, the court **ORDERS** Mr. Robinson, Mr. Papageorge, and
15 Ms. Papageorge to appear at the hearing on Mr. Robinson's motion in person. Further, to allow
16 Judge Cousins to continue the settlement conference to a later date, the court **CONTINUES** the
17 ADR completion date to July 18, 2014.

18 Mr. Robinson **SHALL** serve this order on Mr. Papageorge and Ms. Papageorge.

19 **IT IS SO ORDERED.**

20 Dated: May 13, 2014



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22 LAUREL BEELER
23 United States Magistrate Judge
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