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3 UNITED STATES DISTRICT COURT
4 NORTHERN DISTRICT OF CALIFORNIA

5 ROBERT QUINTERO,
6 Plaintiff,

7 v.

8 WELLS FARGO BANK, N.A.
9 SUCCESSOR BY MERGER TO
10 WACHOVIA MORTGAGE, FSB
11 FORMERLY KNOWN AS WORLD
12 SAVINGS BANK, FSB,
13 Defendant.

Case No. [13-cv-04937-JSC](#)

**ORDER GRANTING MOTION TO
WITHDRAW**

Dkt. No. 45

13 Presently before the Court is the motion of the Mellen Law Firm to withdraw as counsel of
14 record for Plaintiff Robert Quintero. (Dkt. No. 45.) Defendant Wells Fargo Bank, N.A. (“Wells
15 Fargo”) filed a statement of non-opposition to Plaintiff’s counsel’s motion to withdraw. (Dkt. No.
16 46.) In response to the orders of the Court (Dkt. Nos. 47, 49), and in support of its motion, the
17 Mellen Law Firm has filed a declaration setting forth the grounds for withdrawal. (Dkt. No. 50.)
18 Plaintiff has since stipulated to the Mellen Law Firm’s withdrawal and has represented that he will
19 proceed in this matter pro se until he retains substitute counsel. (Dkt. No. 60.)

20 As set forth in the Court’s prior order, the decision to permit withdrawal of counsel is
21 within the trial court’s discretion. *See United States v. Carter*, 560 F.3d 1107, 1113 (9th Cir.
22 2009); *Washington v. Sherwin Real Estate, Inc.*, 694 F.2d 1081, 1087 (7th Cir. 1982). Courts
23 ruling on motions to withdraw have considered, among other things, “(1) the reasons why
24 withdrawal is sought; (2) the prejudice withdrawal may cause to other litigants; (3) the harm
25 withdrawal may cause to the administration of justice; and (4) the degree to which withdrawal will
26 delay the resolution of the case.” *Irwin v. Mascott*, No. 97-4737, 2004 U.S. Dist. LEXIS 28264, at
27 *3 (N.D. Cal. Dec. 1, 2004). In this District, courts also consider the standards of professional
28 conduct required of members of the State Bar of California when determining whether counsel

1 may withdraw representation. *See, e.g., U.A. Local 342 Joint Labor-Mgmt. Comm. v. So. City*
2 *Refrigeration, Inc.*, No. C-09-3219 JCS, 2010 WL 1293522, at *3 (N.D. Cal. Mar. 31, 2010); *Cal.*
3 *Native Plant Soc’y v. U.S. EPA*, No. C 06-3604 PJH, 2008 WL 4911162, at *1 (N.D. Cal. Nov. 14,
4 2008). Under the California Rules of Professional Conduct, an attorney may request permission to
5 withdraw if the client “breaches an agreement or obligation to the member as to expenses or fees”
6 or on the basis of “conduct [that] renders it unreasonably difficult for the [attorney] to carry out
7 the employment effectively.” Cal. Rule of Prof. Conduct 3-700(C)(1)(d), (f). However,
8 “withdrawal is only proper if the client’s interest will not be unduly prejudiced or delayed.”
9 *McClintic*, 2014 WL 51151, at *2 (citation omitted).

10 Here, Matthew Mellen of the Mellen Law Firm has filed a sworn declaration noting that
11 “Mellen Law Firm and Plaintiff have reached an intractable disagreement over [] attorneys’ fees,
12 which resulted in an irretrievable breakdown of the relationship which prevents Mellen Law Firm
13 from being able to represent Plaintiff. It is also true that Plaintiff does not wish to incur any
14 additional attorneys’ fees.” (Dkt. No. 50 ¶ 4.) These reasons support a finding of good cause to
15 grant Plaintiff’s counsel leave to withdraw representation. Furthermore, given the procedural
16 posture of this case, there will be no prejudice to Plaintiff from his counsel’s withdrawal. In
17 particular, under the terms of the parties’ conditional settlement, Plaintiff has agreed to dismiss the
18 action if Defendant offers an acceptable loan modification. (*See id.* ¶ 7.) This litigation has been
19 stayed while Defendant conducts its review, which is ongoing. (*Id.*) Although the parties indicate
20 that the conditional settlement is unlikely to resolve this matter such that further litigation will be
21 necessary, there are no deadlines yet in place—certainly none looming near that might need to be
22 extended. In other words, counsel is not leaving Plaintiff in a lurch with fast-approaching
23 deadlines. Under these circumstances, there is no reason to believe that granting the Mellen Law
24 Firm’s motion to withdraw might otherwise prejudice Plaintiff or delay this action. Indeed,
25 Plaintiff stipulates to the Mellen Law Firm’s withdrawal and will proceed pro se until he has
26 acquired funding to retain substitute counsel. (Dkt. No. 60 at 1.) Thus, each of the factors
27 addressed in *Irwin* support withdrawal. *Irwin*, 2004 U.S. Dist. LEXIS 28264, at *3.

28 Accordingly, the Mellen Law Firm’s motion to withdraw is hereby GRANTED. The Case

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Management Conference previously set for March 26, 2015 at 2:00 p.m. will proceed as scheduled, with counsel for Defendant appearing by telephone and Plaintiff appearing pro se.

This Order disposes of Docket No. 45.

IT IS SO ORDERED.

Dated: March 25, 2015



JACQUELINE SCOTT CORLEY
United States Magistrate Judge