

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA

3
4 NATASHA PAYTON,
5 Plaintiff,

6 v.

7 COUNTY OF ALAMEDA, et al.,
8 Defendants.

Case No. 15-cv-02528-TEH

**ORDER GRANTING MOTION TO
WITHDRAW AS COUNSEL;
SCHEDULING CASE
MANAGEMENT CONFERENCE**

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10 This matter is before the Court on James Cook (on behalf of the Law Offices of
11 John L. Burris)'s Motion to Withdraw as Counsel for Plaintiff. Docket No. 29.
12 Defendants did not file an opposition to the motion. The Court finds this matter suitable
13 for resolution without oral argument pursuant to Civil Local Rule 7-1(b), and hereby
14 VACATES the hearing set for March 28, 2016. Having carefully reviewed the written
15 arguments of Mr. Cook, and good cause appearing, the motion is hereby GRANTED for
16 the reasons set forth below.

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18 **LEGAL STANDARD**

19 In this district, the California Rules of Professional Conduct govern motions to
20 withdraw as counsel. See *Nehad v. Mukasey*, 535 F.3d 962, 970 (9th Cir. 2008).
21 California Rule of Professional Conduct ("Rule") 3-700(C)(5) allows permissive
22 withdrawal when the client "knowingly and freely assents to termination of the
23 employment." Rule 3-700(A)(2) provides that counsel "shall not withdraw from
24 employment until the member has taken reasonable steps to avoid reasonably foreseeable
25 prejudice to the rights of the client, including giving due notice to the client, allowing time
26 for employment of other counsel, complying with rule 3-700(D) [regarding return of
27 papers], and complying with applicable laws and rules." An attorney's duty to the client
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1 upon withdrawal “is not altered by the circumstance of who terminates the relationship.”
2 Acad. of Cal. Optometrists, Inc. v. Superior Court, 51 Cal. App. 3d 999, 1005-06 (1975).

3 The decision to permit counsel to withdraw is within the sound discretion of the
4 trial court. United States v. Carter, 560 F.3d 1107, 1113 (9th Cir. 2009). Courts consider
5 several factors when deciding a motion for withdrawal, including: “(1) the reasons counsel
6 seeks to withdraw; (2) the possible prejudice that withdrawal may cause to other litigants;
7 (3) the harm that withdrawal might cause to the administration of justice; and (4) the extent
8 to which withdrawal will delay resolution of the case.” Deal v. Countrywide Home Loans,
9 No. 09-CV-01643-SBA, 2010 WL 3702459, at *2 (N.D. Cal. Sept. 15, 2010).

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11 **DISCUSSION**

12 Mr. Cook has requested permissive withdrawal from his representation of Plaintiff
13 Natasha Payton pursuant to Local Rule 11-5(a) and Rule 3-700 of the California Rules of
14 Professional Conduct. Mr. Cook contends that irreconcilable differences existed regarding
15 settlement, and that Ms. Payton sought representation by other counsel and requested that
16 Mr. Cook’s office return her file. Mot. at 2. Mr. Cook attached a series of emails
17 demonstrating Ms. Payton’s desire to “move on from this bad experience” and “leave.”
18 Ex. A to Mot. In one of the emails dated January 11, 2016, Ms. Payton requested that her
19 file be “ready to go” for her to pick up. Id. On February 12, 2016, Mr. Cook stated that
20 his office had returned Ms. Payton’s file. Docket No. 37.

21 The Court has considered the applicability of Rule 3-700(C)(5) and has balanced
22 Mr. Cook’s reasons for seeking withdrawal against potential prejudice to the parties, harm
23 to the administration of justice, and delay. The Court finds that Mr. Cook has cited
24 legitimate reasons in support of his motion to withdraw, and that due to the early stage of
25 this litigation, there would be minimal prejudice to the parties, harm to the administration
26 of justice, or undue delay if the Court allows Mr. Cook to withdraw. There have been no
27 substantive motions filed in this case and only one Case Management Conference has
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1 occurred. Therefore, Mr. Cook's withdrawal would not disrupt the proceedings. For these
2 reasons, the Court GRANTS Mr. Cook's motion to withdraw.

3 However, it is unclear to the Court from the submitted papers whether Ms. Payton
4 has obtained new counsel, and no substitution of counsel has been filed thus far.
5 Therefore, Mr. Cook shall continue to forward papers to Ms. Payton. See Civ. L. R. 11-
6 5(b) ("When withdrawal . . . is not accompanied by simultaneous appearance of substitute
7 counsel or agreement of the party to appear pro se, leave to withdraw may be subject to the
8 condition that papers may continue to be served on counsel for forwarding purposes . . .
9 unless and until the client appears by other counsel or pro se.").

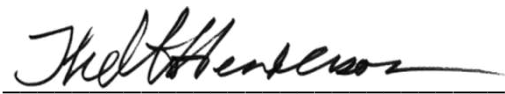
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11 **CONCLUSION**

12 The Law Offices of John L. Burris and all of its members are hereby permitted to
13 withdraw as counsel of record in the above-captioned action for Plaintiff Natasha Payton,
14 effective immediately upon issuance of this Order. The Law Offices of John L. Burris
15 shall continue to receive all papers served in this action and forward them to Ms. Payton
16 until substitute counsel is appointed or Ms. Payton appears pro se.

17 The Court hereby schedules a Case Management Conference on **Monday, April 25,**
18 **2016** at 1:30 PM, in Courtroom 12 on the 19th Floor of the Phillip Burton Federal
19 Courthouse. Ms. Payton shall appear at the Case Management Conference with her new
20 counsel or be prepared to present to the Court specific information as to her attempts to
21 obtain new counsel. The parties shall file a joint case management statement no later than
22 **April 18, 2016.**

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24 **IT IS SO ORDERED.**

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26 Dated: 03/21/16



THELTON E. HENDERSON
United States District Judge