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4 UNITED STATES DISTRICT COURT
5 NORTHERN DISTRICT OF CALIFORNIA
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7 CALIFORNIA NATIVE PLANT SOCIETY,
8 et al.,

No. C 06-3604 PJH

9 Plaintiffs,

**ORDER GRANTING MOTION
TO WITHDRAW**

10 v.

11 UNITED STATES ENVIRONMENTAL
12 PROTECTION AGENCY, et al.,

13 Defendants.

14 _____
15 SUNRIDGE-ANATOLIA, LLC, et al.,

16 Defendant-Intervenors.
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18 Before the court is Cox, Castle & Nicholson LLP's ("Cox Castle") motion to withdraw
19 as counsel of record in this matter for defendant-intervenor Douglas Grantline103
20 Investors, LLC ("DG 103"). Neither federal defendants nor defendant-intervenors oppose
21 the motion. Plaintiffs have declined to take a position on the motion. For the reasons
22 stated below, Cox Castle's motion is GRANTED.

23 According to Civil Local Rule 11-5, "[c]ounsel may not withdraw from an action until
24 relieved by order of Court after written notice has been given reasonably in advance to the
25 client and to all other parties who have appeared in the case." Further, "[w]hen withdrawal
26 by an attorney from an action is not accompanied by simultaneous appearance of
27 substitute counsel or agreement of the party to appear pro se, leave to withdraw may be
28 subject to the condition that papers may continue to be served on counsel for forwarding
purposes, unless and until the client appears by other counsel or pro se." Civil L.R.
11-5(b). In this district, the conduct of counsel, including withdrawal of counsel, is governed

1 by the standards of professional conduct required of members of the State Bar of
2 California. See Elan Transdermal Limited v. Cygnus Therapeutic Systems, 809 F.Supp.
3 1383, 1387 (N.D. Cal. 1992). Under California Rule of Professional Conduct
4 3-700(C)(1)(f), an attorney may request permission to withdraw if the client breaches an
5 agreement or obligation to the member as to expenses or fees. The decision to grant or
6 deny an attorney's motion to withdraw as counsel is committed to the sound discretion of
7 the trial court. LaGrand v. Stewart, 133 F.3d 1253, 1269 (9th Cir. 1998).

8 In the present case, Cox Castle seeks to withdraw as counsel of record for DG 103
9 on the ground that DG 103 will no longer pay for Cox Castle's legal representation in this
10 matter. In support of their motion, Cox Castle submitted the declaration of Brian Cutting
11 ("Cutting"), Project Manager for DG 103. In his declaration, Cutting attests that DG 103
12 consents to Cox Castle's withdrawal. Decl. of Cutting ¶ 6. Cutting also attests that
13 withdrawal will not result in any reasonably foreseeable prejudice to DG 103's rights, Decl.
14 of Cutting ¶ 5, insofar as DG 103 will no longer have an interest in the Douglas Road 103
15 property given that the property is in foreclosure. Finally, while Cox Castle's motion to
16 withdraw as counsel for DG 103 is not accompanied by a simultaneous appearance of
17 substitute counsel or agreement by DG 103 to appear pro se, Cutting attests that Cox
18 Castle is willing to continue to accept service of papers for forwarding purposes in the event
19 DG 103 appears in this matter by other counsel or pro se. Decl. of Cutting ¶ 6.

20 After reviewing the papers submitted by the parties and the reasons for withdrawal
21 noted by Cox Castle, the court concludes that there is good cause to grant Cox Castle's
22 motion. Because DG 103 is a limited liability corporation, however, it must be represented
23 by a licensed attorney. See L.R. 3-9(b); see also Rowland v. California Men's Colony, Unit
24 II Men's Advisory Council, 506 U.S. 194, 202 (1993) (corporations and other artificial
25 entities, including limited liability companies, may only appear in federal court through
26 licensed counsel). Thus, in order to proceed in the instant action, DG 103 must obtain new
27 counsel. DG 103 has thirty days to obtain new counsel, subject to its dismissal as a
28 defendant-intervenor if it does not. New counsel need only file a notice of appearance by

1 December 15, 2008. In the interim, papers shall continue to be served for forwarding
2 purposes on Cox Castle. Accordingly, it is hereby ordered that Cox Castle's motion to
3 withdraw is GRANTED.

4 **IT IS SO ORDERED**

5 Dated: November 14, 2008



PHYLLIS J. HAMILTON
United States District Judge

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