

United States District Court
For the Northern District of California

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

JUST FILM, INC., et al.,
Plaintiffs,
v.
MERCHANT SERVICES, INC., et al.,
Defendants.

AND ALL RELATED CROSS-CLAIMS

No. C 10-1993 CW
ORDER GRANTING
SCHEIN & CAI, LLP'S
MOTION FOR
WITHDRAWAL AS
COUNSEL FOR
DEFENDANTS,
CROSS-CLAIMANTS AND
CROSS-DEFENDANTS
ATLAS PAYMENT
PROCESSING; FIONA
WALSHE; ANTHONY
KUTSCHER; ROVER
ENTERPRISES, INC.;
PROTÉGÉ
INVESTMENTS, INC.;
AND MERCHANT
SERVICES F.A.,
INC.
(Docket No. 193)

Attorneys James Cai and Seth W. Wiener, of Schein & Cai, LLP,
move to be relieved as counsel for Defendant Atlas Payment
Processing; Defendant, Cross-Claimant and Cross-Defendant Fiona
Walshe; and Cross-Claimants and Cross-Defendants Anthony Kutscher,¹
Rover Enterprises, Inc., Protégé Investments, Inc. and Merchant

¹ Defendant Kutscher is currently in bankruptcy. Thus, all
proceedings against him in this case must be stayed. (Docket No.
181.)

1 Services F.A., Inc. (collectively, Atlas Parties). The Atlas
2 Parties; Plaintiffs Just Film, Inc., et al.; and the other
3 Defendants did not respond to Cai and Wiener's motion.

4 Cai and Wiener assert that their withdrawal is necessary based
5 on Rule 3-700(C)(2) of the California Rules of Professional
6 Conduct, which provides that "a member may not request permission
7 to withdraw in matters pending before a tribunal . . . unless such
8 request or such withdrawal is because . . . [t]he continued
9 employment is likely to result in a violation of these rules or of
10 the State Bar Act." Cai and Wiener maintain that certain
11 undisclosed conflicts of interest have arisen among the Atlas
12 Parties. Thus, Cai and Wiener assert, they must withdraw as
13 counsel for the Atlas Parties.

14 Having considered the papers filed by Cai and Wiener, the
15 Court GRANTS their motion. (Docket No. 193.) In accordance with
16 Civil L.R. 11-5(b), Cai and Wiener are permitted to withdraw as
17 counsel for the Atlas Parties on the condition that, for forwarding
18 purposes, they continue to receive papers filed in this action
19 until each of the Atlas Parties appears pro se, if possible, or
20 through new counsel. Cai and Wiener shall inform each of the Atlas
21 Parties of this Order and the effect this Order has on that party
22 in this action.

23 Atlas Payment Processing, Rover Enterprises, Protégé
24 Investments, and Merchant Services F.A. are apparently legal
25 entities. Such entities must be represented by an attorney
26 authorized to appear before the Court. In re Am. W. Airlines, 40
27 F.3d 1058, 1059 (9th Cir. 1994) (citing Rowland v. Cal. Men's
28 Colony, 506 U.S. 194 (1993)). If, by April 11, 2011, new counsel

1 has not appeared for these entity Defendants, any party having
2 claims against them may ask the Clerk to enter default against
3 them, and the Clerk shall do so. Thirty days after the Clerk's
4 entry of default, parties having claims against these entity
5 Defendants shall move for default judgment.

6 IT IS SO ORDERED.

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8 Dated: 3/15/2011



CLAUDIA WILKEN

United States District Judge

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