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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

GIANNI VERSACE, S.P.A., et al.,

Plaintiffs,

v.

VERSACE 19.69 ABBIGLIAMENTO
SPORTIVO SRL, et al.,

Defendants.

Case No. [16-cv-03617-HSG](#)

**ORDER GRANTING MOTION TO
WITHDRAW AS COUNSEL FOR
LICENSEE DEFENDANTS**

Re: Dkt. No. 115

Defendants in this action include V1969 Versace SMO, LLC; V1969 Versace HG, LLC; and V1969 USA, LLC (collectively “Licensee Defendants”).¹ On January 27, 2017, the Court granted Licensee Defendants’ motion to substitute Adams Rossman (“Attorney Rossman”) for their former counsel, Dkt. No. 85, who had sought withdrawal because Licensee Defendants “breached an agreement as to expenses and fees,” Dkt. No. 61. On May 22, 2017, Attorney Rossman filed a motion to withdraw as counsel for Licensee Defendants on the ground that they had “breached the retainer agreement with Mr. Rossman as to fees and expenses.” Dkt. No. 115. He has given notice to the principals of the Licensee Defendants that he is seeking withdrawal and that, as corporate entities, they cannot proceed without counsel. See *id.* at 3–4, 6. On June 5, 2017, Plaintiffs Versace, S.p.A. and Versace USA, Inc. (collectively, “Versace”) opposed withdrawal, Dkt. No. 136, and on June 12, 2017, Attorney Rossman filed a reply declaration in support of the motion, Dkt. No. 140. On July 13, 2017, the Court held a hearing, which was attended by the following individuals: Attorney Rossman; Eran Brosh, a principal for Licensee

¹ Over the course of this litigation, these same defendants have collectively been referred to as both the “LVBHQ Defendants” and the “Licensee Defendants.” Compare, e.g., Dkt. No. 61 (former) with Dkt. No. 115 (latter).

1 Defendants; and Rosemarie Ring, an attorney for Plaintiffs (“Attorney Ring”). The Court held an
2 in camera portion of the hearing with only Attorney Rossman and Mr. Brosh, followed by an open
3 portion of the hearing, during which the Court also heard from Attorney Ring. Based on the
4 relevant legal authority, the papers, and the representations made at the hearing, the Court granted
5 the motion to withdraw as counsel, and issues this order to explain its reasoning in more detail.

6 **I. LEGAL STANDARD**

7 In this District, “[c]ounsel may not withdraw from an action until relieved by order of
8 Court after written notice has been given reasonably in advance to the client and to all other
9 parties who have appeared in the case.” Civil L.R. 11-5(a). Moreover, “[w]hen withdrawal by an
10 attorney from an action is not accompanied by simultaneous appearance of substitute counsel or
11 agreement of the party to appear pro se, leave to withdraw may be subject to the condition that
12 papers may continue to be served on counsel for forwarding purposes, unless and until the client
13 appears by other counsel or pro se.” Civil L.R. 11-5(b).

14 Withdrawal is also governed by the California Rules of Professional Conduct. See j2
15 *Glob. Commc’ns, Inc. v. Blue Jay, Inc.*, No. C 08-4254 PJH, 2009 WL 464768, at *1 (N.D. Cal.
16 Feb. 24, 2009)); see also Civil L.R. 11-4(a)(1) (requiring compliance with the California Rules of
17 Professional Conduct). Under these rules, permissive withdrawal may only be granted by leave of
18 the Court. CA ST RPC, Rule 3-700(A)(1). The professional rules provide for permissive
19 withdrawal on various grounds, including when “[t]he client . . . breaches an agreement or
20 obligation to the member as to expenses or fees[,]” or when “[t]he member believes in good faith .
21 . . . that the tribunal will find the existence of other good cause for withdrawal.” *Id.*, Rule 3-
22 700(C)(1), (6). However, an attorney may not withdraw before he or she “has taken reasonable
23 steps to avoid reasonably foreseeable prejudice to the rights of the client, including giving due
24 notice to the client, allowing time for employment of other counsel, complying with rule 3-
25 700(D), and complying with applicable laws and rules.” *Id.*, Rule 3-700(A)(2); see also *id.*, Rule
26 3-700(D) (regarding the refund of fees and the release of property and papers).

27 Finally, courts assessing withdrawal balance the equities, considering such factors as why
28 counsel seeks to withdraw and whether permitting withdrawal may prejudice other litigants, harm

1 the administration of justice, or delay the case’s resolution. *Robinson v. Delgado*, No. CV 02-
2 1538 NJV, 2010 WL 3259384, at *2 (N.D. Cal. Aug. 18, 2010) (citing cases).

3 **II. DISCUSSION**

4 Local Civil Rule 11-5(a) is satisfied because the filing of the motion almost two months
5 ago gave all parties reasonable advance notice of withdrawal, and because Attorney Rossman has
6 given notice to his client. See Dkt. No. 115 at 3–4, 6. The filing of the motion was also permitted
7 by the California Rules of Professional Conduct. Based upon the information disclosed during the
8 in camera portion of the hearing, the Court is persuaded that Attorney Rossman filed the motion
9 with a good faith belief in the existence of good cause for withdrawal. CA ST RPC, Rule 3-
10 700(C)(6). Balancing the equities, the Court finds that permitting withdrawal is just, while
11 imposing certain conditions (described below) will minimize delay and prejudice. See *Robinson*,
12 2010 WL 3259384, at *2 (discussing equities). In the exercise of its discretion, the Court finds
13 that withdrawal is warranted. See *Gong*, 2008 WL 160964, at *1.

14 However, Licensee Defendants, as a business entity, may appear in federal court only
15 through counsel. See *U.S. v. High Country Broad. Co., Inc.*, 3 F.3d 1244, 1245 (9th Cir. 1993);
16 see also N.D. Cal. L.R. 3-9(b). Consequently, the Licensee Defendants must obtain new counsel
17 within 30 days. During this period, the Court directs Attorney Rossman to accept service of
18 papers for forwarding to the Licensee Defendants. See Civil L.R. 11-5(b).

19 If the Licensee Defendants are unable to obtain counsel within 30 days, the Court will be
20 inclined to strike their answer and allow Plaintiffs’ counsel to seek entry of a default and a default
21 judgment. See *Baeza v. Assisted Credit Servs., Inc.*, No. 8:15-cv-01451-ODW (JCG), 2016 WL
22 3912016, at *2–4 (C.D. Cal. July 19, 2016); *see also Emp. Painters’ Trust v. Ethan Enters., Inc.*,
23 480 F.3d 993, 998 (9th Cir. 2007) (affirming entry of a default judgment where the corporate
24 defendant had failed to obtain substitute counsel); *High Country*, 3 F.3d at 1245 (same). Licensee
25 Defendants have never answered the amended complaint. Therefore, the Court sets July 18, 2017
26 as the deadline for the Licensee Defendants to file their answer to the amended complaint.

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III. CONCLUSION

For the foregoing reasons, the Court grants the motion to withdraw as counsel.

IT IS SO ORDERED.

Dated: 7/14/2017


HAYWOOD S. GILLIAM, JR.
United States District Judge