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28UNITED 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**

Re: Dkt. No. 272

Defendants in this action include Versace 19.69 Abbigliamento Sportivo S.R.L. and Theofanis Papadas (collectively, “VAS”). On December 21, 2018, VAS’s counsel—attorneys Gerard F. Dunne, William Dunnegan, Nicholas G. Karambelas, and Suizi Lin—filed a motion to withdraw as counsel for VAS on the ground that they “have not been paid for their services, and that there is no reasonable expectation that they will be paid.” Dkt. No. 272 at 3. Counsel gave more than five months’ notice to VAS of their intent to withdraw. *Id.* Mr. Papadas opposed the motion, but therein admitted to unpaid balances. *See* Dkt. No. 278. Plaintiffs Gianni Versace, S.p.A. and Versace USA, Inc. (collectively, “Versace”) do not oppose this motion. Dkt. No. 279.

On January 31, 2019, the Court held a hearing, which was attended by Attorneys Dunnegan and Lin for VAS, and Attorney Rosemarie Ring for Versace. At the Court’s direction, Mr. Papadas appeared telephonically, both in his individual capacity and as a client representative for Defendant Versace 19.69 Abbigliamento Sportivo S.R.L. *See* Dkt. Nos. 276 (ordering Mr. Papadas’s appearance), 283 (granting Mr. Papadas’s request to appear telephonically). At the hearing, the Court reviewed *in camera* a report produced by Mr. Dunnegan that included defense counsels’ unpaid balances giving rise to the present motion. Based on the relevant legal authority, the papers, and the representations made at the hearing, the Court now **GRANTS** the motion to

1 withdraw as counsel.

2 **I. LEGAL STANDARD**

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

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

23 Finally, courts assessing withdrawal balance the equities, considering such factors as why
24 counsel seeks to withdraw and whether permitting withdrawal may prejudice other litigants, harm
25 the administration of justice, or delay the case’s resolution. *Robinson v. Delgado*, No. CV 02-
26 1538 NJV, 2010 WL 3259384, at *2 (N.D. Cal. Aug. 18, 2010) (citing cases).

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1 **II. DISCUSSION**

2 Local Civil Rule 11-5(a) is satisfied because the filing of the motion over a month ago
3 gave all parties reasonable advance notice of withdrawal, and because defense counsel gave notice
4 to their client. *See* Dkt. No. 272 at 3. The filing of the motion was also permitted by the
5 California Rules of Professional Conduct. Based upon the information disclosed during the *in*
6 *camera* portion of the hearing, the Court is persuaded that defense counsel filed the motion with a
7 good faith belief that there is good cause for withdrawal. CA ST RPC, Rule 3-700(C)(6).
8 Balancing the equities, the Court finds that permitting withdrawal is just, while imposing certain
9 conditions (described below) will minimize delay and prejudice. *See Robinson*, 2010 WL
10 3259384, at *2 (discussing equities). In the exercise of its discretion, the Court finds that
11 withdrawal is warranted. *See Gong*, 2008 WL 160964, at *1.

12 If necessary, Mr. Papadas, as an individual, may appear *pro se* in federal court. However,
13 Versace 19.69 Abbigliamento Sportivo S.R.L., as a business entity, may appear in federal court
14 only through counsel. *See U.S. v. High Country Broad. Co., Inc.*, 3 F.3d 1244, 1245 (9th Cir.
15 1993); *see also* N.D. Cal. L.R. 3-9(b). Consequently, Versace 19.69 Abbigliamento Sportivo
16 S.R.L. must obtain new counsel within 60 days. During this period, the Court directs defense
17 counsel to accept service of papers for forwarding to both Mr. Papadas and Versace 19.69
18 Abbigliamento Sportivo S.R.L. *See* Civil L.R. 11-5(b).

19 If Mr. Papadas in his individual capacity is unable to obtain counsel within 60 days, he will
20 proceed in this action *pro se*. In that event, Mr. Papadas must provide the Court with his contact
21 information, so that he may be served as an individual going forward. If Versace 19.69
22 Abbigliamento Sportivo S.R.L. is unable to obtain counsel within 60 days, the Court will be
23 inclined to allow Plaintiffs' counsel to seek entry of default and a default judgment. *See Baeza v.*
24 *Assisted Credit Servs., Inc.*, No. 8:15-cv-01451-ODW (JCG), 2016 WL 3912016, at *2-4 (C.D.
25 Cal. July 19, 2016); *see also Emp. Painters' Trust v. Ethan Enters., Inc.*, 480 F.3d 993, 998 (9th
26 Cir. 2007) (affirming entry of a default judgment where the corporate defendant had failed to
27 obtain substitute counsel); *High Country*, 3 F.3d at 1245 (same).

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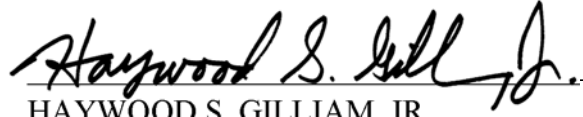
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III. CONCLUSION

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

IT IS SO ORDERED.

Dated: 2/1/2019


HAYWOOD S. GILLIAM, JR.
United States District Judge