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**\*E-FILED 11-19-2010\***

NOT FOR CITATION  
IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

IRMA CARRANZA; ROSENDO CARRANZA, No. C10-04356 HRL

Plaintiffs,

v.

AMERICAN PREMIER FUNDING, INC.;  
EWW ENTERPRISES, INC.; BANKUNITED,  
AS ALLEGED SUCCESSOR IN INTEREST  
TO BANKUNITED FSB; MORTGAGE  
ELECTRONIC REGISTRATION SYSTEMS,  
INC.; ROBERT E. WEISS INCORPORATED;  
DOES 1-30,

Defendants.

**ORDER (1) CONDITIONALLY  
GRANTING PLAINTIFFS' COUNSEL'S  
MOTION TO WITHDRAW; (2)  
SETTING DEADLINE FOR CONSENT  
OR DECLINATION TO PROCEED  
BEFORE A UNITED STATES  
MAGISTRATE JUDGE; AND (3)  
CONTINUING HEARING ON  
DEFENDANTS' MOTION FOR FEES**

**[Re: Docket Nos. 6 and 20]**

Plaintiffs' counsel, Christopher Salaysay, moves for permission to withdraw from this action. "Counsel may not withdraw from an action until relieved by order of Court after written notice has been given reasonably in advance to the client and to all other parties who have appeared in the case." Civ. L.R. 11-5(a). "In the Northern District of California, the conduct of counsel is governed by the standards of professional conduct required of members of the State Bar of California, including the Rules of Professional Conduct of the State Bar of California." *Hill Design Group v. Wang*, No. C04-521 JF (RS), 2006 WL 3591206 at \*4 (N.D. Cal., Dec. 11, 2006) (citing *Elan Transdermal Limited v. Cygnus Therapeutic Systems*, 809 F. Supp. 1383, 1387 (N.D. Cal.1992)). Those standards provide that an attorney may seek permission to

1 withdraw if, among other things, the client breaches an agreement or obligation to the attorney  
2 with respect to payment of expenses or fees, or if the client's conduct renders it unreasonably  
3 difficult for the attorney to represent the client effectively. *Id.* (citing Cal. Rules of Professional  
4 Conduct Rule 3-700(C)(1)(d), (f)).

5 Here, Salaysay essentially says that irreconcilable differences have made it impossible  
6 for him to effectively represent his clients. Based upon all the papers filed, Salaysay will be  
7 permitted to withdraw. However, there has been no simultaneous substitution of counsel. Nor  
8 is there any indication that plaintiffs have agreed to proceed *pro se*. Accordingly, Salaysay's  
9 motion is granted subject to the condition that papers may continue to be served on him for  
10 forwarding purposes unless and until plaintiffs appear *pro se* or through other counsel. CIV.  
11 L.R. 11-5(b). Salaysay is directed to serve a copy of this order on plaintiffs and to file a proof  
12 of service with the court. Plaintiffs are advised that, even if they do not obtain other counsel,  
13 they are nonetheless obliged to adhere to rules that all litigants are required to follow. *See King*  
14 *v. Atiyeh*, 814 F.2d 565, 567 (9th Cir. 1987) (finding that unrepresented litigants must follow  
15 the same procedural rules as represented parties).

16 Additionally, no later than December 20, 2010, plaintiffs shall file either (1) a Consent  
17 to Proceed Before a United States Magistrate Judge or (2) a Declination to Proceed Before a  
18 Magistrate Judge and Request for Reassignment to a United States District Judge. *See* CIV.  
19 L.R. 73-1. The forms are available from the Clerk of the Court and on the court's website at  
20 [www.cand.uscourts.gov](http://www.cand.uscourts.gov).


21 The hearing on defendants' motion for attorney's fees, which was noticed for December  
22 14, 2010, is continued to **February 8, 2011, 10:00 a.m. in Courtroom 2**. Salaysay represents  
23 that he has served a copy of that motion and all supporting papers on plaintiffs. He is directed  
24 to file a proof of service with the court. Plaintiffs are advised that their opposition to that  
25 motion must be filed with the court no later than **January 18, 2011**. Defendants' reply shall be  
26 filed by **January 25, 2011**.

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Defense counsel's request to appear by phone at the February 8, 2011 hearing is granted.  
Defense counsel shall make necessary arrangements to have CourtCall (866-582-6878) initiate  
the call to the court just prior to the time set for the hearing.

SO ORDERED.

Dated: November 19, 2010



\_\_\_\_\_  
HOWARD R. LLOYD  
UNITED STATES MAGISTRATE JUDGE

1 5:10-cv-04356-HRL Notice has been electronically mailed to:

2 Christopher Michael Salaysay salaysaylaw@aol.com

3 Cris A Klingerman cklingerman@rewlaw.com

4 Harold Louis Collins hcollins@rewlaw.com

5 Counsel are responsible for distributing copies of this document to co-counsel who have not  
6 registered for e-filing under the court's CM/ECF program.

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