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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

MAIDA DZAKULA,)
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Plaintiff,)
)
v.)
)
JOHN MCHUGH, SECRETARY OF THE)
ARMY,)
)
Defendant.)
_____)

Case No.: C 10-05462 PSG
**ORDER GRANTING MOTION FOR
LEAVE TO WITHDRAW AS
COUNSEL**
(Re: Docket No. 37)

Darren J. Bogie and Matthew D. Roy, Counsel for Plaintiff Maida Dzakula (“Dzakula”), move to withdraw as counsel pursuant to Civ. L.R. 11-5. Defendant John McHugh, the Secretary of the Army (“Army”), does not oppose the motion. Pursuant to Civ. L.R. 7-1(b), the motion is taken under submission and the hearing scheduled to be held on November 1, 2011 is vacated. Having reviewed the papers and considered the arguments of counsel,

IT IS HEREBY ORDERED that Dzakula’s motion to withdraw is GRANTED.

Dzakula filed a complaint against the Army alleging violations of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e, *et seq.* Specifically, Dzakula claimed that she was subject to (1) unlawful discrimination based on her religion and national origin; (2) a hostile work environment; and (3) unlawful retaliation for engaging in prior protected Equal Employment Opportunity activity.

Pursuant to Rules 12(b)(1) and 12(b)(6), the Army moved to dismiss this action on the grounds that Dzakula was judicially estopped from bringing the action because she had omitted any

1 reference to it as an asset in her Chapter 7 Bankruptcy proceedings, *In re: Bozo and Maida Dzakula*,
2 Civil Action No. 5:10-bk-60560-SJL (Bankr. N.D. Cal. 2010).

3 The court granted the Army's motion to dismiss on April 22, 2011. Dzakula has since
4 appealed the ruling to the Ninth Circuit Court of Appeals and opening briefs are due no later than
5 January 13, 2012. On the appeal, Dzakula is represented by Jeanine G. Strong.

6 In this action, Dzakula is represented by two attorneys, Darren Bogie and Matthew Roy. Mr.
7 Bogie is planning to close his law practice in early 2012, and as a result will no longer be associated
8 with Mr. Roy. For his part, Mr. Roy states that he does not yet possess the skill and experience to
9 represent Dzakula in the event the Ninth Circuit reverses the April 22 order. On September 9, 2011,
10 Dzakula consented to the discharge of Mr. Bogie and Mr. Roy and her entire client file was returned.

11 It is appropriate for Mr. Bogie and Mr. Roy to withdraw as Dzakula's counsel. As an initial
12 matter, Dzakula has consented to their discharge as her counsel. Both Mr. Bogie and Mr. Roy have
13 proffered reasonable explanations for their withdrawal; Mr. Bogie is closing his practice and Mr.
14 Roy does not feel adequately qualified at this juncture in his career to represent her alone. Finally,
15 the Army does not oppose the motion and court does not foresee any prejudice to it, or to the
16 administration of justice.

17 Dated: October 12, 2011

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19 PAUL S. GREWAL
20 United States Magistrate Judge
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