

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

10 JIMMY J. McAfee, et. al.,) Case No.: 5:11-CV-00821-LHK
11 v.)
12 Plaintiffs,) ORDER GRANTING MOTION OF ROD
13 v.) K. TANNER TO WITHDRAW
14 THOMAS FRANCIS, et. al.,) APPEARANCE; CONTINUING
15 Defendants.) HEARING ON DEFENDANT FRANCIS'
16) MOTION TO DISMISS; AND
17) GRANTING PLAINTIFFS' REQUEST
18) FOR EXTENSION OF TIME TO
19) RESPOND TO DEFENDANT
20) NEPTUNE'S ACCOUNT'S MOTION TO
21) QUASH AND DISMISS
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23)
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On November 1, 2011, Attorney Rod K. Tanner ("Tanner"), Counsel of Record for Plaintiffs Jimmy J. McAfee, Jayna Sutherland, and Mona Sutherland (collectively "Plaintiffs") in this action, filed a Motion to Withdraw Appearance. *See* ECF No. 36. Tanner's stated grounds for his motion to withdraw are, *inter alia*, Plaintiffs' refusal to pay compensation for his legal services and refusal to consent to his withdrawal. *See* Mot. at 3-4. Plaintiffs subsequently consented on November 24, 2011 to substitution of Mark Lapham as counsel of record in place of Tanner. *See* ECF No. 46.

The Court finds this matter appropriate for resolution without oral argument. *See* Civil L.R. 7-1(b). The hearing on the Motion to Withdraw set for December 8, 2011 at 1:30 p.m. is

1 accordingly VACATED. In light of Plaintiffs' consent to the substitution of counsel, and for good
2 cause shown, the Court hereby GRANTS Tanner's Motion to Withdraw Appearance. *See* Civil L.
3 R. 11-5; Cal. R. Prof. Conduct 3-700(C)(5) (permissive withdrawal allowed when client
4 "knowingly and freely assents to termination of the employment"). In concurrently filed Orders,
5 the Court GRANTS the substitution of Attorney Mark Lapham for Attorney Rod K. Tanner as
6 counsel of record for all three Plaintiffs in this action.

7 In light of Plaintiffs' substitution of new counsel, the Court GRANTS Plaintiffs' Request
8 for Extension of Time to Respond to Defendant Neptune's Account, LLC's ("Neptune's Account")
9 Motion to Quash Service of Summons and Complaint and for Dismissal of Action for Lack of
10 Personal Jurisdiction (ECF No. 37). *See* ECF No. 45. Plaintiffs' Opposition to Defendant
11 Neptune's Account's Motion to Quash and to Dismiss is due January 16, 2012. Defendant
12 Neptune's Account's Reply is due February 6, 2012. The hearing on that Motion remains as set on
13 March 1, 2012, at 1:30 p.m.

14 Also in light of Plaintiffs' substitution of new counsel, the hearing on Defendant Thomas
15 Francis' Motion to Dismiss is hereby continued from December 8, 2011 at 1:30 p.m. to March 1,
16 2012 at 1:30 p.m., to coincide with the hearing on Defendant Neptune's Account Motion to Quash
17 and to Dismiss.

18 The case management conference set for December 8, 2011 at 1:30 p.m. remains as set.
19 The parties shall file a Joint Case Management Statement by no later than Wednesday, December
20 7, 2011, at 11:00 a.m.

21 **IT IS SO ORDERED.**

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23 Dated: December 5, 2011
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LUCY H. KOH
United States District Judge