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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 THOMAS JOHN HEILMAN,
12 CDCR #H-76785,

13 Plaintiff,

14 v.

15 A. SILVA, et al.,

16 Defendants.
17

Case No.: 13-CV-2984 JLS (AGS)

**ORDER GRANTING MOTION TO
WITHDRAW**

(ECF No. 383)

18 Presently before the Court is Counsel David J. Zugman’s Motion to Withdraw as
19 Counsel. (“MTN,” ECF No. 383.) After considering Mr. Zugman’s arguments and the
20 law, the Court **GRANTS** the Motion to Withdraw as Counsel.

21 “An attorney may not withdraw as counsel except by leave of court, and the decision
22 to grant or deny counsel’s motion to withdraw is committed to the discretion of the trial
23 court.” *Beard v. Shuttermart of Cal., Inc.*, No. 07CV594WQH (NLS), 2008 WL 410694,
24 at *2 (S.D. Cal. Feb. 13, 2008) (alterations, citations, and internal quotation marks
25 omitted); *see also* Civ. L.R. 83.3(g)(3). “In ruling on a motion to withdraw as counsel,
26 courts consider: (1) the reasons why withdrawal is sought; (2) the prejudice withdrawal
27 may cause to other litigants; (3) the harm withdrawal might cause to the administration of
28 justice; and (4) the degree to which withdrawal will delay the resolution of the case.” *Leatt*

1 *Corp. v. Innovative Safety Tech., LLC*, No. 09-CV-1301-IEG (POR), 2010 WL 444708, at
2 *1 (S.D. Cal. Feb. 2, 2010) (citing *Beard*, 2008 WL 410694, at *2).

3 Pursuant to Civil Local Rule 83.4(b), each attorney “permitted to practice in this
4 court shall be familiar with and comply with the standards of professional conduct required
5 of members of the State Bar of California.” Civ. L.R. 83.4(b). In relevant part, California
6 Rule of Professional Conduct 3-700 provides:

7 (A) In General.

8 (1) If permission for termination of employment is required by
9 the rules of a tribunal, a member shall not withdraw from
10 employment in a proceeding before that tribunal without its
11 permission.

12 (2) A member shall not withdraw from employment until the
13 member has taken reasonable steps to avoid reasonably
14 foreseeable prejudice to the rights of the client, including giving
15 due notice to the client, allowing time for employment of other
16 counsel, complying with rule 3-700(D) [concerning the return of
17 client papers and property and the refund of any advance fees not
18 earned], and complying with applicable laws and rules.

16 (C) Permissive Withdrawal.

17 [A] member may not request permission to withdraw in matters
18 pending before a tribunal, and may not withdraw in other matters,
19 unless such request or such withdrawal is because:

19 . . .

20 (5) The client knowingly and freely assents to termination of the
21 employment; or

22 (6) The member believes in good faith, in a proceeding pending
23 before a tribunal, that the tribunal will find the existence of
24 other good cause for withdrawal.

23 Pursuant to the Southern District of California’s Civil Local Rules, “[a] notice of motion
24 to withdraw as attorney of record must be served on the adverse party and on the moving
25 attorney’s client.” Civ. L.R. 83.3(f)(3)(a).

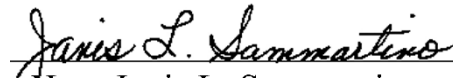
26 Mr. Zugman seeks to withdraw as counsel for Plaintiff Thomas Heilman. (MTN 1.)
27 He explains that Mr. Heilman has filed motions with the Court arguing that his counsel
28 provided him with ineffective assistance and coerced him into signing a settlement

1 agreement. (*Id.*) Mr. Zugman represents that he has served a notice of the motion to
2 withdraw as required by Civil Local Rule 83.3(g)(3)(a). (Declaration of David Zugman,
3 ECF No. 383-1, at 1–2.) The Court finds that Mr. Zugman has presented valid reasons to
4 withdraw. This withdrawal may prejudice Mr. Heilman, but such concerns are tempered
5 because he has agreed to settlement terms. (ECF No. 385.) Because the parties have agreed
6 to settlement terms, there is minimal likelihood of harm to administration of justice and
7 this withdrawal will not delay resolution of the case.

8 Good cause appearing, the Court **GRANTS** Mr. Zugman’s Motion to Withdraw as
9 Counsel, (ECF No. 383). The Clerk of Court **SHALL** update the docket to reflect the
10 withdrawal of Mr. Zugman as counsel for Plaintiff in this case.

11 **IT IS SO ORDERED.**

12 Dated: August 20, 2018


13 Hon. Janis L. Sammartino
14 United States District Judge