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7 **UNITED STATES DISTRICT COURT**
8 **SOUTHERN DISTRICT OF CALIFORNIA**
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10 KALI ORFF, et al.,
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12 Plaintiffs,
13 v.
14 MICHELLE KRISTOL, et al.,
15 Defendants.

Case No.: 17-CV-0116 W (AGS)

**ORDER GRANTING EX PARTE
APPLICATION TO WITHDRAW AS
COUNSEL [DOC. 35]**

16 Pending before the Court is an ex parte application¹ to withdraw as attorney of
17 record for Defendant Andrew Smithson, filed jointly by Defendant Smithson and Defense
18 Counsel Michael Gibbs on February 20, 2018. [Doc. 35.] Despite the passing of more
19 than a week, no opposition has been filed.

20 “The grant or denial of an attorney’s motion to withdraw in a civil case is a matter
21 addressed to the discretion of the trial court” Washington v. Sherwin Real Estate,
22 Inc., 694 F.2d 1081, 1087 (7th Cir. 1982). Factors considered in the decision include: “1)
23 the reasons why withdrawal is sought; 2) the prejudice withdrawal may cause to other
24 litigants; 3) the harm withdrawal might cause to the administration of justice; and 4) the
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¹ The application bears the signature of Defendant Andrew Smithson and Defense Counsel Michael
28 Gibbs. (*Ex Parte Application* [Doc. 35].) Parties style the document as a joint motion, but the Court interprets it as an ex parte application as it lacks Plaintiffs’ counsel’s signature.

1 degree to which withdrawal will delay the resolution of the case.” CE Resource, Inc. v
2 Magellan Group, LLC, 2009 WL 3367489, at *2 (E.D. Cal. Oct. 14, 2009) (citing
3 Canandaigua Wine Co., Inc. v. Moldauer, 2009 WL 89141, at *1 (E.D. Cal. Jan. 14,
4 2009)).

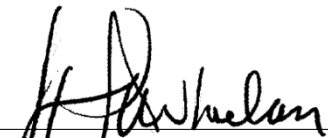
5 Given that the client consents to the withdrawal, that no other party has opposed
6 the application to withdraw despite ample time, and that no delay or harm to the
7 administration of justice is apparent, the Court will exercise its discretion to grant the ex
8 parte application to withdraw as counsel.

9 The application is **GRANTED**. [Doc. 68.] Within three days, Mr. Gibbs must file
10 with the Court current contact information for Mr. Smithson, including a current: (1)
11 phone number; (2) email address, and (3) mailing address.

12 Upon that filing, the withdrawal will become effective.

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14 **IT IS SO ORDERED.**

15 Dated: February 28, 2018

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18 Hon. Thomas J. Whelan
19 United States District Judge
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