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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 LEFT COAST WRESTLING, LLC,
12 Plaintiff,
13 v.
14 DEARBORN INT'L LLC,
15 Defendant.

Case No.: 17cv466-LAB (NLS)

**ORDER REQUIRING
SUBSTITUTION OF COUNSEL**

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17 On July 31, 2017, counsel for Dearborn International and Duke Minh Le moved to
18 withdraw as counsel of record, without naming new counsel. (Docket no. 17.) The Court
19 ordered Dearborn and Le to respond. (Docket no. 18.) The order pointed out that, if his
20 counsel were permitted to withdraw, Le would be “proceeding *pro se* (without
21 representation), unless and until he substitutes in new counsel.” (*Id.* at 1:18–21.) It also
22 pointed out that Dearborn cannot proceed *pro se*, and warned that it “should be prepared
23 to substitute in new counsel promptly.” (*Id.* at 1:23–24.) Otherwise, the order cautioned,
24 Dearborn would likely forfeit its counterclaim and default on the claims brought against
25 it. “In short,” the order warned, “it will be submitting to a default judgment and will lose
26 the entire case.” (*Id.* at 1:25–26.) The Court also specifically warned Dearborn and Le
27 that they should “arrange to monitor the docket to keep abreast of any new filings or
28 orders.” (*Id.* at 2:5–6.)

1 The order referred to substitution of new counsel because that is what this
2 District's Civil Local Rules require. *See* Civil Local Rule 83.1(f)(2). Instead of doing
3 that, however, two attorneys filed a notice stating that they were entering an appearance
4 on behalf of Le, and purporting to direct that further notices and documents be served on
5 them instead of on Le personally. The notice implies that Le has retained them and
6 approves their substituting in, in place of him, but it does not actually say so and it was
7 not signed by Le.

8 Before proceeding for Le, his new counsel need to substitute in properly, by means
9 of an *ex parte* motion to substitute them in, in place of Le. While the Court has no reason
10 to doubt counsel's good faith in this, it is important to document that Le he understands
11 and agrees these will be his new attorneys. He would not be permitted to file anything or
12 make any appearances; all that would have to be done by his new counsel. *See* Civil Local
13 Rule 83.1(f)(1). And if for any reason he wanted to change counsel or proceed *pro se*
14 again, he would first need to obtain the Court's approval. *See* Civil Local Rule 83.1(f)(2)
15 and (3).

16 Le's new counsel must promptly file an *ex parte* motion to substitute in as counsel
17 in place of Le, and the motion must be signed by them as well as by Le. Any opposition
18 to the motion must be filed within two court days.

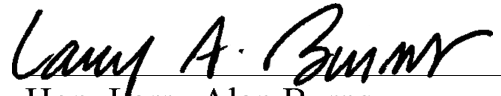
19 Le's new counsel have already filed an opposition to Plaintiff's *ex parte* motion to
20 alter or amend the judgment. That motion is being denied for other reasons, so the Court
21 had no need to rely on the opposition, and there is no need to strike it from the docket at
22 this time.

23 Counsel for both parties should also bear in mind that motions need to be filed as
24 early as reasonably possible, and well in advance of the time when a ruling is needed. *See*
25 *Oakland Tribune, Inc. v. Chronicle Pub. Co., Inc.* 762 F.2d 1374, 1377 (9th Cir. 1985)
26 (delay in seeking relief implies a lack of urgency). They should also bear in mind that
27 whether a matter is urgent and should be expedited is generally a disputed issue and should
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1 not be the subject of *ex parte* communications. The Court intends to afford both parties a
2 fair opportunity to be heard before it acts.

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4 **IT IS SO ORDERED.**

5 Dated: July 24, 2018



Hon. Larry Alan Burns

United States District Judge

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