

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

GELU TOPA,

Plaintiff,

v.

Case No: 2:16-cv-737-FtM-29CM

TEOFILO MELENDEZ and  
NICHOLAS SHAFFER,

Defendants.

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**ORDER**

This matter comes before the Court upon review of Defendants' Notice of Substitution of Counsel, construed as a Motion to Substitute Counsel, filed on September 28, 2018. Doc. 49. For the reasons stated below, the motion is granted.

A motion to permissively withdraw is a matter within the discretion of the court. *Obermaier v. Driscoll*, No. 2:00-cv-214-FtM-29D, 2000 WL 33175446, at \*1 (M.D. Fla. Dec. 13, 2000). Pursuant to the Local Rules, "no attorney, having made a general appearance under subsection (a) of [Local Rule 2.03] shall thereafter abandon the case or proceeding in which the appearance was made, or withdraw as counsel for any party therein, except by written leave of Court obtained after giving ten (10) days' notice to the party or client affected thereby, and to opposing counsel." M.D. Fla. Rule 2.03(b). Here, the motion fails to comply with the notice requirements of Local Rule 2.03(b) as well as the requirements of Local Rule 3.01(g).<sup>1</sup>

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<sup>1</sup> Local Rule 3.01(g) requires that each motion filed in a civil case, with certain enumerated exceptions, "stat[e] whether counsel agree on the resolution of the motion[.]"

The motion indicates, however, that the law firm Purdy, Jolly, Giuffreda, Barranco & Jisa, P.A., will continue to represent Defendants, with attorney Richard Giuffreda remaining as counsel of record. Doc. 49. Defendants only seek to remove attorney Matthew Wildner, of the same law firm, as counsel of record. *Id.* Thus, the Court finds good cause to excuse the failure to comply with Rule 2.03(b) and grant the motion.

ACCORDINGLY, it is

**ORDERED:**

Defendants' Notice of Substitution of Counsel (Doc. 49), construed as a Motion to Substitute Counsel, is **GRANTED**. The Clerk is directed to terminate attorney Matthew Wildner as counsel of record and from receiving future notices of electronic filing for Defendants.

**DONE** and **ORDERED** in Fort Myers, Florida on this 23rd day of October, 2018.

  
CAROL MIRANDO  
United States Magistrate Judge

Copies:  
Counsel of record  
Pro se parties

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M.D. Fla. R. 3.01(g). Here, the Court finds good cause to excuse the failure to comply but advises the parties that future motions that fail to comply with Local Rule 3.01(g) may be denied on that basis.