

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

MIAMI DIVISION

CASE NO. 07-21221 CIV ALTONAGA/Turnoff

RENEE BLASZKOWSKI, *et al.*,
individually and on behalf of
others similarly situated,

Plaintiffs/Class Representatives,
vs.

MARS INC., *et al*

Defendants.

**MALTZMAN FOREMAN PA AND KEEGAN AND BAKER, LLP'S
MOTION TO WITHDRAW AS COUNSEL OF RECORD
FOR PLAINTIFF DEBBIE RICE**

Pursuant to S.D. Fla. L.R. 7.1 and 11.1, and Rule 4-1.16(b) of the Model Rules of Professional Conduct, the undersigned counsel and the law firm of Maltzman Foreman, P.A. and Keegan and Baker, LLP respectfully request this Court to grant them leave to Withdraw as Counsel of Record for Plaintiff Debbie Rice, and in support thereof, states as follows:

I. Introduction

Debbie Rice retained the law firm of Maltzman Foreman to represent her in the above styled class action litigation on approximately July 19, 2007. The last communication that any attorney at the law firm of Maltzman Foreman had with Debbie Rice was approximately at the end of May 2007 at which time she indicated that she wished to voluntarily dismiss her claims without prejudice. From the end of May 2007 until present, counsel at the law firm of Maltzman Foreman have repeatedly attempted to

contact Debbie Rice by telephone and email communication to no avail. Debbie Rice has never responded to any of these communications. Moreover, her last known telephone number is now no longer in service.

II. Representation of Debbie Rice has been rendered unreasonably difficult and there is good cause to withdraw

Rule 4-1.16 of the Rules Regulating the Florida Bar allows for counsel to withdraw from representation if: (1) withdrawal can be accomplished without material adverse effect on the interests of the client; (2) the client insists upon taking action that the lawyer considers repugnant, imprudent, or with which the lawyer has a fundamental disagreement; (3) the client fails substantially to fulfill an obligation to the lawyer regarding the lawyer's services and has been given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled; (4) the representation will result in an unreasonable financial burden on the lawyer or has been rendered unreasonably difficult by the client; or (5) other good cause for withdrawal exists.

Given the fact that Debbie Rice has not informed counsel at Maltzman Foreman PA of her new contact information or responded to any communication, representation of Debbie Rice has been rendered impossible, and is sufficient legal grounds for withdrawal under Rule 4-1.16(4). *Beard v. Shuttermart of Cal., Inc.*, 2008 U.S. Dist. LEXIS 10575, *7 (S.D. Cal. Feb. 13, 2008) (“A client's repeated failure to communicate with counsel in not responding to phone calls and written communication is sufficient to be considered conduct making it unreasonably difficult for counsel to carry out the litigation.”); *Benefield v. City of New York*, 2006 NY Slip Op 26482, *3 (N.Y. Sup. Ct. 2006) (“Conflicts of interest, and a failure to communicate with the attorney, may be added to the list of reasons which may justify counsel's withdrawal. A client who fails to respond

to communications from his or her attorney may render continued representation unreasonably difficult.”); *Nat'l Career College, Inc. v. Spellings*, 2007 U.S. Dist. LEXIS 50705, *8 (D. Haw. July 11, 2007) (granting motion to withdraw based on based on “Plaintiffs' failure to communicate on all aspects of handling the case”). Furthermore, by failing to communicate with counsel, Debbie Rice has failed to fulfill her obligations to counsel at Maltzman Foreman PA and Keegan and Baker, LLP and has provided good cause for withdrawal

III. Conclusion

For the reasons set forth more specifically above, the undersigned counsel and law firm of Maltzman Foreman, P.A. and Keegan and Baker, LLP respectfully request this Court to enter an Order granting their Motion to Withdraw as Counsel for Plaintiff Debbie Rice, and for all other relief that this Court deems just and proper.

CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1(3)

Prior to filing this Motion and pursuant to this Court's local rules, the undersigned hereby certifies that she conferred with Defendants' representative and was advised that the all Defendants take no position as to the motion and Defendant Natura does not oppose the motion.

Dated: August 22, 2008
Miami, FL

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CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that the foregoing was electronically filed with the Clerk of the Court via CM/ECF on this 22 day of August, 2008. We also certify that the foregoing was served on all counsel or parties of record on the attached Service List either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronic Notices of Filing.

S/ Catherine J. MacIvor

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