

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

RICHARD ROSEN,

Plaintiff,

v.

TMS, INC. d/b/a SUPPORT PLUS
MEDICAL and WARREN K.
TROWBRIDGE, As President of TMS, Inc.
and Individually,

Defendants.

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Civil Action No. 09-11515-JLT

ORDER

August 24, 2010

TAURO, J.

After reviewing the Parties’ submissions and after a Motion Hearing held on August 24, 2010, this court hereby orders that:

1. Defendant TMS, Inc.’s Motion to Withdraw as Counsel for Defendant TMS, Inc. [#31] is ALLOWED. TMS, Inc. has gone out of business, no longer has any officers, directors or employees, and effectively has ceased to exist. TMS, Inc. is not in a position to assist in its defense or to pay for Defendant Counsel’s services and the representation will result in an “unreasonable financial burden” on Defendant Counsel.¹

¹ Rule 1.16(b) of the Massachusetts Rules of Professional Conduct permits a lawyer to withdraw from representing a client under certain circumstances, including if “the representation will result in an unreasonable financial burden on the lawyer or has been rendered unreasonably difficult by the client . . . or other good cause for withdrawal exists.” Cf. LR, D. Mass. 83.5.2(c) (authorizing withdrawal).

2. Plaintiff's Request for Entry of Default and Motion for Default Judgment Against Defendant TMS, Inc. D/B/A Support Plus Medical [#33] is taken under advisement.
3. Defendant shall file a Motion for Summary Judgment by September 15, 2010. Plaintiff shall file its Response to Defendants' Motion for Summary Judgment by September 24, 2010. Each party shall include in its respective filing a Proposed Order and Findings.
4. A Hearing will be held on November 17, 2010.

IT IS SO ORDERED.

/s/ Joseph L. Tauro
United States District Judge