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Attorneys for Defendant/Counter-Claimant,
KK Real Estate Investment Fund, LLC

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

9 U.S. BANK, NATIONAL ASSOCIATION,
 10 AS TRUSTEE FOR THE HOLDERS OF
 THE CSFB MORTGAGE SECURITIES
 11 CORP., ADJUSTABLE RATE
 MORTGAGE TRUST 2005-8,
 12 ADJUSTABLE RATE MORTGAGE-
 BACKED PASS-THROUGH
 13 CERTIFICATES, SERICES 2005-8,

Case No.: 2:15-cv-01463-RCJ-DJA

**MOTION TO WITHDRAW AS COUNSEL
 FOR DEFENDANT/COUNTER-
 CLAIMANT KK REAL ESTATE
 INVESTMENT FUND, LLC AND
 REQUEST TO BE REMOVED FROM ECF
 SERVICE LIST**

Plaintiff,

v.

16 COUNTRYSIDE HOMEOWNERS
 17 ASSOCIATION; KK REAL ESTATE
 INVESTMENT FUND, LLC; DOE
 18 INDIVIDUALS I-X, inclusive; and ROE
 CORPORATIONS I-X, inclusive,

Defendants.

AND ALL RELATED CLAIMS.

22 COMES NOW, Luis A. Ayon, Esq. of the law firm of AYON LAW, PLLC (hereinafter
 23 referred to as "Counsel"), counsel of record for Defendant/Counter-Claimant, KK Real Estate
 24 Investment Fund, LLC (hereinafter referred to as "Defendant" or "KK Real Estate"), and pursuant
 25 to LR IA 11-6 and SCR 46, counsel hereby moves this Court for an Order Granting Counsel's
 26 Motion to Withdraw as Counsel of Record for Defendant, with regard to the above-referenced
 27 matter.

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This Motion is made and based upon the following memorandum of points and authorities, the papers and pleadings on file herein, as well as the Declaration of Luis A. Ayon, Esq., in support of the Motion to Withdraw as counsel attached hereto.

DATED this 5th day of September, 2019.

AYON LAW, PLLC

/s/ Luis A. Ayon
LUIS A. AYON, ESQ.
Nevada Bar No. 9752
8716 Spanish Ridge Avenue, Suite 115
Las Vegas, Nevada 89148

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. FACTURAL BACKGROUND**

3 This matter arose out of a Complaint [ECF No. 1] filed by Plaintiff, U.S. Bank, National
4 Association, as Trustee for The Holders of The CSFB Mortgage Securities Corp., Adjustable Rate
5 Mortgage Trust 2005-8, Adjustable Rate Mortgage-Backed Pass-Through Certificates, Series
6 2005-8 (hereinafter referred to as “Plaintiff” or “U.S. Bank”), in the United States District Court,
7 District of Nevada bearing Case No. 2:15-cv-1463-RCJ-DJA, on or about July 31, 2015, alleging
8 damages against Defendant, KK Real Estate, with regard to the property located at 8543 Ebony
9 Hills Way, Las Vegas, Nevada 89123. On or about September 17, 2015, Defendant filed an
10 Answer and Counterclaim [ECF No. 21]. On or about October 1, 2015, Plaintiff filed an Answer
11 to the Counterclaim [ECF No. 23].

12 On or about October 31, 2016, Plaintiff filed a Motion for Summary Judgment [ECF No.
13 48] in which Defendant, KK Real Estate, responded to [ECF No. 49] on or about November 23,
14 2016, followed by a Reply in Support of U.S. Bank’s Motion for Summary Judgment [ECF No.
15 52] on or about December 12, 2016.

16 On or about January 12, 2017, a Substitution of Attorney for KK Real Estate [ECF No.
17 54] was filed by Maier Gutierrez Ayon to substitute in for Hong & Hong. An Order [ECF No.
18 55] was entered that ruled in favor of U.S. Bank’s Motion for Summary Judgment on or about
19 April 13, 2017, in which KK Real Estate filed a Notice of Appeal [ECF No. 59] on or about May
20 11, 2017.

21 On or about May 19, 2017, Maier Gutierrez & Associates filed a Motion to Withdraw as
22 Attorneys of Record [ECF No. 62] for Defendant, KK Real Estate. On or about June 6, 2017, an
23 Order [ECF No. 68] was entered granting Maier Gutierrez & Associates’ Motion to Withdraw,
24 followed by Ayon Law, PLLC’s Notice of Appearance [ECF No. 70] on behalf of KK Real Estate
25 on or about June 20, 2017.

26 At the Status Conference set by the Court on June 10, 2019 [EFC No. 80], the Court
27 determined that this matter be set for a Calendar Call on November 19, 2019 at 9:00 a.m. in Reno,
28

1 Nevada, and Jury Trial to follow on December 2, 2019 at 8:30 a.m., in Reno, Nevada. However,
2 Defendant KK Real Estate has failed to meet its financial obligations to Ayon Law, and therefore,
3 counsel for Defendant KK Real Estate is requesting to withdraw from this case.

4 There are currently two (2) depositions that have been scheduled by Plaintiff. One on
5 October 8, 2019, and on October 9, 2019. Ayon Law is requesting that it withdraw from this
6 matter before those dates.

7 8 **II. LEGAL ANALYSIS**

9 Counsel has good cause to withdraw its representation pursuant to Rule 1.16(b) of the
10 Nevada Rules of Professional Conduct (hereinafter referred to as “NRPC”) wherein it states that:
11 *See* NRPC 1.16(b):

12 (1) “Withdrawal can be accomplished without material adverse effect on the interests of
13 the client”

14 ...

15 (6) The representation will result in an unreasonable financial burden on the lawyer or has
16 been rendered unreasonably difficult by the client; or

17 (7) Other good cause for withdrawal exists.”
18

19 Furthermore, the attorney client relationship has dissolved at the client’s request.
20 Supreme Court Rule 41 reads that:

21
22 “The attorney in an action or special proceedings may be changed at any time before
23 judgment or final determination as follows:

- 24
- 25 1. Upon consent of the attorney, approved by the client.
 - 26 2. Upon the order of the court or judge thereof on the application of the attorney or
27 client.”

28 *See* SCR 41:

1 Pursuant to the request of Ayon Law, Counsel is requesting that it be permitted to withdraw
2 from this matter as continued representation of Defendant KK Real Estate Investment would be
3 an unreasonable financial burden.

4 **III. CONCLUSION**

5 Counsel respectfully requests of this Court to approve his withdrawal of representation of
6 Defendant without delay so that Defendant may retain alternative representation as this matter
7 has been set for an upcoming Calendar Call on November 19, 2019 at 9:00 a.m., and Jury Trial
8 to follow on December 2, 2019 at 8:30 a.m., in Reno, Nevada. Defendant has requested that
9 Counsel discontinue its representation immediately. Moreover, Ayon Law requests that it be
10 removed from the ECF service list.

11 DATED this 5th day of September, 2019.

12 **AYON LAW, PLLC**

13
14 /s/ Luis A. Ayon
15 LUIS A. AYON, ESQ.
16 Nevada Bar No. 9752
17 8216 Spanish Ridge Ave., #115
18 Las Vegas, Nevada 89148
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DECLARATION OF LUIS A. AYON, ESQ. IN SUPPORT OF
MOTION TO WITHDRAW AS COUNSEL

I, Luis A. Ayon, Esq., of the law firm of AYON LAW, PLLC, hereby submits this declaration as follows:

1. I am an attorney, duly licensed to practice law, in the State of Nevada, and am the owner/partner of the law firm of AYON LAW, PLLC;

2. That I was retained to represent the interests of Defendant, KK REAL ESTATE INVESTMENT FUND, LLC, with regard to United States District Court, District of Nevada bearing Case No. 2:15-cv-1463-RCJ-DJA, and possess personal knowledge of this ongoing litigation;

3. On or about August 16, 2019, I was informed by Joseph Hong, Esq., that he would be taking over this case along with other cases the client had with Ayon Law.

4. On or about August 21, 2019, I followed up with Joseph Hong regarding the notices of appearance for this client, but I was informed that Mr. Hong had not been formally retained.

5. I have informed the client that I would be withdrawing from this matter.

6. Defendant is aware that it will need to retain alternative representation since this matter has been set for an upcoming Calendar Call on November 19, 2019 at 9:00 a.m., and Jury Trial to follow on December 2, 2019 at 8:30 a.m., in Reno, Nevada;

7. That Defendant's last known address is:
KK Real Estate Investment Fund, LLC
c/o Leo Chan
2625 S. Rainbow Blvd., C106
Las Vegas, Nevada 89146
Phone no.: 702-301-3395
Email: titanvegas@gmail.com

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8. Continuing representing Defendant KK Real Estate Investment would be unreasonable financial burden to Ayon Law; and

9. That this request is not made in bad faith.

I declare under penalty of perjury that the above is true and correct.

DATED this 5th day of September, 2019.

/s/Luis A. Ayon, Esq. _____
LUIS A. AYON, ESQ.

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CERTIFICATE OF SERVICE

Pursuant to NRCp 5(b), I certify that on the 5th day of September, 2019, I did cause a true copy of **MOTION TO WITHDRAW AS COUNSEL OF RECORD**, to be e-filed/served, via the Court's CM/ECF system to all parties and counsel and/or by depositing a true copy of same in the United States Mail, at Las Vegas, Nevada to all parties entitled to receive notice.

Via U.S. Mail to:

KK Real Estate Investment Fund, LLC
c/o Leo Chan
2625 S. Rainbow Blvd., C106
Las Vegas, Nevada 89146

/s/ Coreene L. Drose
An Employee of Ayon Law, PLLC


ORDER

IT IS SO ORDERED.

IT IS FURTHER ORDERED that by September 17, 2019, Defendant KK Real Estate Investment Fund, LLC must retain a new attorney and that attorney must file a notice of appearance in this case.

IT IS FURTHER ORDERED that the Clerk is hereby directed to remove Luis A. Ayon, Esq. from the CM/ECF service list for this matter.

DATED: September 9, 2019



Daniel J. Albregts
United States Magistrate Judge