

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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JUDITH ANN STYLES, et al.

Case No. 2:17-cv-01197-RFB-PAL

Plaintiffs,

ORDER

STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY,

(Mot WD Atty. – ECF Nos. 21, 22)

11 || Defendant.

12 This matter is before the court on a “Notice of Withdrawal of Counsel” filed by Attorney
13 David Lee Phillips (ECF No 21) and Notice of Substitution of Counsel (ECF No. 22). The clerk
14 of court notified Mr. Phillips that these documents were not filed in accordance with the either
15 comply with the Local Rules of Practice. Local Rule11-6 governs appearances, substitutions and
16 withdrawals of counsel. LR 11-6(b) provides that “[n]o attorney may withdraw after appearing in
17 a case except by leave of court after notice has been served on the affected client and opposing
18 counsel.” LR IA 11-6(c) applies to stipulations to substitute counsel. It provides:

19 A stipulation to substitute attorneys must be signed by the attorneys and the
20 represented client and be approved by the court. Except where accompanied by a
21 request for relief under subsection (e) of this rule, the attorney's signature on a
stipulation to substitute the attorney into a case constitutes an express acceptance
of all dates then set for pretrial proceedings, trial, or hearings, by the discovery plan
or any court order.

23 The “notice” states that Mr. Phillips and his law firm “acted only as an assistant to Mr.
24 George Carter”, that he has no retainer agreement with plaintiffs, and has never been formally
25 retained by the plaintiffs who consent to his withdrawal “so as to prevent confusion regarding
26 representation.” It states that Mr. Carter will remain counsel for plaintiffs. The substitution is
27 signed by the plaintiffs and Mr. Phillips. It states the plaintiffs are substituting “themselves in
28 proper person in the place and instead of David Lee Phillips Esq. from the Law Offices of DAVID

1 LEE PHILLIPS & ASSOCIATES who has acted only as an assistant to Mr. George Carter....”
2 Plaintiffs also acknowledge that their depositions are scheduled for October 24, 2017. Mr. Carter
3 did not sign either document. The substitution signed by plaintiffs suggests they will be
4 representing themselves. However, the notice of withdrawal states Mr. Carter will remain counsel
5 of record.

6 Both Mr. Carter and Mr. Phillips appear as counsel of record on the first page of the
7 complaint although only Mr. Carter signed the complaint. Both attorneys have appeared as counsel
8 of record throughout this case. A motion to compel and countermotion are currently pending. A
9 status report (ECF NO 23) filed October 26, 2017 indicates the motions are now fully briefed. It
10 also relates that on the eve of plaintiffs’ noticed depositions defense counsel was advised the
11 plaintiffs would be appearing pro se, and that plaintiffs appeared for their deposition but refused
12 to be deposed stating they were looking for other counsel.

13 Having reviewed and considered the matter the court will deny and strike the two filings
14 without prejudice to refiling either a motion to withdraw or a substitution which fully complies
15 with the requirements of LR IA 11-6. The court will also set this case for hearing on the pending
16 motions and require Mr. Carter, Mr. Phillips and the plaintiffs to appear to clarify inconsistent
17 representations made in the “notice” and “substitution” filed with the court.

18 **IT IS ORDERED:**

- 19 1. Any request for relief contained in ECF Nos 21 &22 is DENIED and STRICKEN
20 without prejudice to refiling a motion to withdraw or substitution of counsel that fully
21 complies with the requirements of LR IA 11-6.
- 22 2. A hearing on Defendant’s Emergency Motion to Compel (ECF No. 15) and
23 Countermotion to Extend Time (ECF No. 18) is set for **9:00 a.m., November 2, 2017**,
24 in Courtroom 3B.

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3. **Mr. Carter, Mr. Phillips and the plaintiffs shall appear at the hearing. Failure to appear as order will result in the imposition of sanctions up to and including a recommendation to the district judge of potentially case dispositive sanctions.**

Dated this 26th day of October, 2017.

Peggy A. Leen
PEGGY A. LEEN
UNITED STATES MAGISTRATE JUDGE