UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

MARTIN BANK,

Plaintiff,

vs.

LAPTOP & DESKTOP REPAIR, LLC,

Defendant.

3:16-cv-00516-RCJ-VPC

ORDER

This is a putative class action arising from allegations of fraud, breach of contract, breach of the implied covenant of good faith and fair dealing, and violation of various state consumer protection laws. Pending before the Court is a Motion to Strike and to Withdraw as Counsel of Record. (ECF No. 49.) For the reasons given herein, the Court grants the motion.

On August 29, 2016, this case was transferred to the District of Nevada from the Eastern District of New York, where it was originally filed. (Order, ECF No. 43.) On October 11, 2016, attorney Scott Brody—who was retained to represent Defendant Laptop & Desktop Repair, LLC in the Eastern District of New York—filed a letter advising the Court that he would not be representing Defendant or appearing in this action within the District of Nevada. (Letter, ECF No. 48.) Brody further explained that the U.S. District Court for the Northern District of Georgia, Atlanta Division, recently appointed a receiver for Defendant, and that counsel for the receiver would be appearing to represent Defendant here. However, attached to Brody's letter was a

Substitution of Counsel for Defendant apparently signed by Reno attorneys John Arrascada and Robert Angres. (Substitution, ECF No. 48-1.) Upon receipt of Mr. Brody's letter and the attached Substitution, Arrascada and Angres were added as attorneys of record in this case.

On October 12, 2016, Arrascada filed the instant motion to strike the Substitution and withdraw as counsel of record. (Mot., ECF No. 49.) Arrascada asserts that he never agreed to represent Defendant in this matter and never signed the Substitution attached to Brody's letter.

On October 13, 2016, Brody filed a supplemental letter, explaining that the Substitution was filed in error, and should not have been given the effect of an appearance. (Suppl. Letter, ECF No. 50.) Brody also reiterated that only counsel for Defendant's receiver is authorized to appear for Defendant in this action.

Based on the foregoing, the Court finds that the Substitution of Counsel, (ECF No. 48-1), was filed in error and that Arrascada and Angres have thus not appeared in this action. Therefore, the motion to strike the Substitution is granted and Arrascada and Angres shall be removed as counsel of record.

CONCLUSION

IT IS HEREBY ORDERED that the motion (ECF No. 49) is GRANTED. The erroneously filed Substitution of Counsel is hereby stricken.

IT IS FURTHER ORDERED that the Clerk of the Court shall remove Mr. Arrascada and Mr. Angres as counsel of record in this action.

IT IS SO ORDERED.

DATED: This 23rd day of May, 2017.

ROBERT C. JONES
United States District Judge