

1 THE HONORABLE JOHN C. COUGHENOUR

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7 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 SVEN GOLDMANIS, *et al.*,

10 Plaintiffs,

11 v.

12 JOHN INSINGER, *et al.*,

13 Defendants.
14

CASE NO. C13-2035-JCC

ORDER AMENDING JUDGMENT
AND GRANTING MOTION TO
WITHDRAW

15 These matters come before the Court on “The Insinger Defendants” Motion to Amend
16 Judgment (Dkt. No. 80) and Plaintiffs’ counsel’s Motion to Withdraw as Attorney (Dkt. No. 77).
17 Having thoroughly considered the parties’ briefing, the relevant record, and the applicable
18 federal and local rules, the Court finds oral argument unnecessary and hereby GRANTS the
19 Motion to Amend in part and GRANTS the Motion to Withdraw in full.

20 This Court entered judgment against Plaintiffs in response to Defendants’ Motion for
21 Sanctions. (Judgment, Dkt. No. 79.) According to Defendants’ attorney, such Motion was filed
22 by some, but not all of the Defendants. (Motion to Amend Judgment, Dkt. No. 80 at 1.) The
23 Motion for Sanctions (Dkt. No. 65) is entitled “Insinger Defendants’ Motion for Sanctions.”
24 (*Id.*) In this Motion, the Insinger Defendants are defined as Elizabeth Insinger, John Insinger,
25 Robert Insinger, Susan Insinger, Insinger-24 LLC, Virginia Hayes Testamentary Trust, Risch
26 Goss Insinger & Gustavel, and Hollis Seim. (*Id.* at 2.)

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1 The Federal Rules of Civil Procedure provide that a “motion to alter or amend a
2 judgment must be filed no later than 28 days after the entry of the judgment.” Fed. R. Civ. P.
3 59(e). Defendants seek to amend the Judgment imposing sanctions to 1) identify all the parties
4 in the case caption; 2) identify each Plaintiff responsible for payment by name (Linda Insinger
5 and Sven Goldmanis); 3) identify each Defendant owed reimbursement of attorney’s fees and
6 costs; and 4) reference and incorporate the September 2, 2014 Taxation of Costs (Dkt. No. 71)
7 into the amount assessed. (Motion to Amend Judgment, Dkt. No. 80 at 2.)

8 With regard to request one, this Court is not in the practice of identifying all parties in the
9 caption, but will add “*et al.*” to the caption on the Amended Judgment, which, in fact, was the
10 format used by Defendants in their proposed order granting their Motion for Sanctions. (*See*
11 Motion for Sanctions, Dkt. No. 65, Ex. 1.) The Court will grant Defendants’ second and third
12 requests, in light of Defendants’ argument that such is necessary to avoid confusion in
13 subsequent proceedings.¹ Lastly, with regard to Defendants’ fourth request, the Court has
14 amended the Judgment to include the \$893.15 in costs that the Clerk of the Court assessed
15 against the Plaintiffs in September. (*See* Dkt. No. 71.)

16 Plaintiffs, in their Response to Defendants’ Motion to Amend Judgment, do not oppose
17 the above requests. (Plaintiffs’ Response to Motion to Amend, Dkt. No. 81 at 2.) However,
18 Plaintiffs ask that the Court “bifurcate” the “work performed for each Plaintiff and then broken
19 down by each Defendant, as certain motions related to one but not necessarily both Plaintiffe
20 [sic] (eg Motion to disqualify relating to Sven Goldmanis); and which Defendant paid which
21 fees.” (*Id.*) The Court declines this request, because 1) it is unclear exactly what Plaintiffs
22 desire; 2) such request is outside the scope of Defendants’ Motion to Amend Judgment, and

23 _____
24 ¹ The Court notes that the Defense has not been entirely consistent in its use of the “Insinger
25 Defendants.” For instance, Susan Insinger is omitted from Defendants’ proposed amended
26 judgment (Declaration of Thomas Brennan, Dkt. No. 80, Ex. A), but is included in the Motion to
Amend. The Court elects to use the broadest definition of the term the “Insinger Defendants,”
i.e., that which was included in the Motion to Amend Judgment (Dkt. No. 80).

1 therefore may be stricken under Local Civil Rule 7(g) and Federal Rule of Civil Procedure
2 12(f);² and 3) the Court is without the information necessary to accomplish any bifurcation of
3 costs. As Defendants demonstrate, Plaintiffs’ counsel’s request is “well beyond the relief sought
4 in this motion” for amended judgment, and the “plaintiffs could have addressed the
5 apportionment of debt in their response to the sanctions motion against Linda Insinger,
6 Goldmanis, and their attorney.” (Defendants’ Reply in Support of Motion to Amend Judgment,
7 Dkt. No. 83 at 2.)

8 * * *

9 Before this Court is also Plaintiffs’ counsel Matthew Johnson’s Motion to Withdraw.
10 (Dkt. No. 77.) Mr. Johnson states that a breakdown of communication and understanding has
11 occurred between himself and Mr. Goldmanis, which makes it impossible for him to continue to
12 effectively represent Mr. Goldmanis. (*Id.* at 1.) According to the Court Rules of the State of
13 Washington:

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15 (b) Except as stated in paragraph (c), a lawyer may withdraw from
representing a client if:
- 16 (1) withdrawal can be accomplished without material adverse effect on
the interests of the client;
 - 17 (2) the client persists in a course of action involving the lawyer's services
that the lawyer reasonably believes is criminal or fraudulent;
 - 18 (3) the client has used the lawyer's services to perpetrate a crime or fraud;
 - 19 (4) the client insists upon taking action that the lawyer considers
repugnant or with which the lawyer has a fundamental disagreement;
 - 20 (5) the client fails substantially to fulfill an obligation to the
lawyer regarding the lawyer's services and has been given reasonable
21 warning that the lawyer will withdraw unless the obligation is fulfilled;
 - 22 (6) the representation will result in an unreasonable financial burden on
the lawyer or has been rendered unreasonably difficult by the client; or
 - 23 (7) other good cause for withdrawal exists.

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25 ² See also *Quinstreet, Inc. v. Ferguson*, 2008 WL 5102378, at *4 (W.D. Wash., Nov. 25, 2008)
26 (“A movant may not raise new facts or arguments in his reply brief.”) (citing *United States v.*
Puerta, 982 F.2d 1297, 1300 n. 1 (9th Cir.1992)).

1 Washington State Court Rules, Rule 1.1.6: Declining or Terminating Representation. The Court
2 finds such circumstances present here, given the events that led to the Court's sanctioning of
3 Plaintiffs and counsel's assertion that it is no longer possible to effectively represent Plaintiff
4 given the current lack of communication (*see* Motion to Withdraw, Dkt. No. 77 at ¶1). As such,
5 the Court GRANTS Plaintiffs' counsel's Motion to Withdraw (Dkt. No. 77). All further
6 correspondence shall be sent to Sven Goldmanis at P.O. Box 50402, Bellevue, WA, after
7 Plaintiff's counsel supplies the Court with the correct zip code.³

8 For the foregoing reasons, Defendants' Motion to Amend (Dkt. No. 80) is GRANTED in
9 part and Plaintiffs' counsel's Motion to Withdraw (Dkt. No. 77) is GRANTED in full.

10 DATED this 6th day of January 2015.

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John C. Coughenour
UNITED STATES DISTRICT JUDGE

25 ³Counsel incorrectly lists Sven Goldmanis' Bellevue P.O. Box's zip code as 98105, which is not
26 a Bellevue zip code. Plaintiff's counsel is directed to supply this Court with Plaintiff's correct
P.O. Box address, after which point the Court directs that all correspondence shall be sent to
Plaintiff at this address.