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

10 BEAUTYKO LLC; LINOI LLC; SHOP
11 FLASH USA INC.; BEAUTYKO USA INC.;
AND BENNOTI USA INC.,

12 Plaintiffs,

13 v.

14 AMAZON FULFILLMENT SERVICES,
15 INC.,

16 Defendant.

Case No. C16-355 RSM

ORDER GRANTING IN PART MOTION
TO WITHDRAW AS COUNSEL AND
DEFERRING RULING ON AMAZON'S
MOTION TO COMPEL

17 This matter comes before the Court on a Motion for Withdrawal (Dkt. #50) filed by
18 counsel of record for Plaintiffs and a telephonic Motion filed by Defendant Amazon
19 Fulfillment Services, Inc., (“Amazon”), (*see* Dkt. #56). Plaintiffs’ counsel requests relief under
20 Local Rule 83.2(b). Amazon’s Motion, brought after the Motion to Withdraw, seeks to compel
21 Avi Sivan, the principal of the Plaintiffs’ companies, to produce an amended errata to his
22 deposition testimony consistent with a representation made in a subsequent email.
23

24 The Court will address the Motion to Withdraw first. Plaintiffs’ counsel have satisfied
25 the procedural requirements of Local Rule 83.2(b). Counsel have certified service of their
26 Motion on opposing counsel and Plaintiffs as required. Dkt. #50 at 2. Counsel have also
27 properly noted their Motion for consideration three Fridays after filing. Under Local Rule
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ORDER GRANTING IN PART MOTION TO WITHDRAW AS COUNSEL AND
DEFERRING RULING ON AMAZON’S MOTION TO COMPEL - 1

1 83.2(b)(3), a business entity, except a sole proprietorship, must be represented by counsel, and
2 that withdrawing counsel must advise their client of this rule and the consequences of their
3 withdrawal. Plaintiffs' counsel states via declaration that they advised Plaintiffs that "because
4 they are business entities they are required by law to be represented by an attorney admitted to
5 practice before this court and that failure to obtain a replacement attorney may result in the
6 dismissal of Plaintiffs' claims and entry of default against Plaintiffs on Amazon's
7 counterclaims." Dkt. #51 at ¶ 4. The Court notes that new counsel has not appeared in this
8 matter, nor has the Court been informed of any progress on that front.
9

10 Plaintiffs' counsel have also provided substantial evidence to support their request. An
11 attorney who requests withdrawal will ordinarily be permitted to do so "until sixty days before
12 the discovery cut off date in a civil case..." LCR 83.2(b)(1). Discovery has long since ended,
13 as have nearly all other pre-trial deadlines, including the deadline for motions in limine. Dkt.
14 #55. The trial date has been continued repeatedly, and is now set for October 10, 2017. *Id.* In
15 their Motion, Plaintiff's counsel state only that "[p]rofessional considerations require that
16 Yarmuth Wilsdon PLLC move to withdraw as counsel for Plaintiffs in this action." Dkt. #50 at
17 1. However, Plaintiffs' counsel have also submitted documents for *in camera* review. *See* Dkt.
18 #56 (minute entry for telephone conference held on Defendant's Motion to Compel, where
19 Plaintiffs' counsel indicated they would submit materials on the instant Motion for *in camera*
20 review). The Court notes, with some concern, that Plaintiffs' counsel have not certified that
21 copies of these documents were sent to Plaintiffs.
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25 Defendant Amazon has filed a Response but does not oppose this Motion. Dkt. #57 at
26 1. Instead, Amazon makes several requests of the Court: a) that trial not be continued; b) that
27 the Court set August 14, 2017, as a settlement deadline; c) that "the Court impose a deadline on
28

1 Plaintiffs of no later than August 14, 2017, whether directly or via counsel, to provide the
2 outstanding amended errata of Avi Sivan;” and d) that the Court impose a deadline of August 9,
3 2017, for Plaintiffs to appear through new counsel or the Court will “immediately enter an
4 order of default and the Court *sua sponte* set a date for an evidentiary hearing for Amazon to
5 submit evidence supporting entry of default judgment against Plaintiffs.” Dkt. #57 at 2.
6

7 The Court has reviewed the record, including the documents submitted for *in camera*
8 review, and finds good cause for the withdrawal of Plaintiffs’ counsel as individual attorneys
9 and the firm in general. It is not possible for Plaintiffs’ counsel to continue to represent
10 Plaintiffs in this matter without running the significant risk of violating the Rules of
11 Professional Conduct. The Court is satisfied that Plaintiffs have been adequately informed of
12 the reasons for withdrawal and the necessity to obtain new counsel. Accordingly, the Motion
13 to Withdraw will be granted. The Court is concerned by Plaintiffs’ apparent failure to obtain
14 new counsel, given the proximity to trial and the severe consequences facing Plaintiffs.
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16 Turning to Amazon’s requests, the Court first agrees that the trial date should not be
17 extended further at this time. New counsel, if obtained, still has several weeks to prepare for
18 trial. The Court does not believe it is proper or helpful to impose an arbitrary settlement
19 deadline two months before trial and will not do so.
20

21 As to Amazon’s third request and its Motion to Compel, the Court is inclined to grant
22 Amazon’s Motion based on the record so far. On the other hand, given that Plaintiffs are
23 expected to obtain new counsel immediately, the Court will further defer ruling on the Motion
24 to Compel and provide Plaintiffs an opportunity to properly respond, either by requesting a
25 second telephonic hearing or by filing an opposition brief, not to exceed six pages, no later than
26 August 24, 2017. Absent such, Amazon’s Motion will be granted.
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1 As to Amazon's fourth request, the Court will impose a deadline of August 24, 2017,
2 for Plaintiffs to appear through new counsel. Should Plaintiffs fail to obtain counsel and make
3 an appearance, the Court will enter an Order of Default and *sua sponte* set a date for an
4 evidentiary hearing for Amazon to submit evidence for entry of default judgment against
5 Plaintiffs.

6
7 Having reviewed the relevant briefing and the remainder of the record, the Court hereby
8 finds and ORDERS that:

- 9 1. Plaintiffs' Counsel's Motion to Withdraw (Dkt. #50) is GRANTED. The Court
10 directs that Plaintiffs' counsel and the law firm Yarmuth Wilsdon PLLC be
11 terminated. Plaintiffs are currently without counsel and must have new counsel
12 enter an appearance **no later than August 24, 2017**. All further correspondence to
13 Plaintiffs shall be sent to the following addresses:

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15 BEAUTYKO LLC
16 10 Bond Street, Suite 296
17 Great Neck, NY 10021
18 Telephone: (516) 441-5290

SHOP FLASH USA INC.
10 Bond Street, Suite 296
Great Neck, NY 10021
Telephone: (516) 441-5290

19 LINOI LLC
20 3 White Pine Lane
21 Great Neck, NY 11023
22 Telephone: (516) 441-5290

BEAUTYKO USA INC.
57 Watermill Lane
Great Neck, NY 11021
Telephone: (516) 441-5290

23 BENNOTI USA INC.
24 10 Bond Street, Suite 296
25 Great Neck, NY 10021
26 Telephone: (516) 441-5290

- 27 2. Amazon's telephonic Motion (*see* Dkt. #56) is DEFERRED. Plaintiffs have an
28 opportunity to respond, either by requesting a second telephonic hearing or by filing
an opposition brief, not to exceed six pages, **no later than August 24, 2017**.
Absent such, Amazon's Motion will be granted.

DATED this 3rd day of August 2017.



RICARDO S. MARTINEZ
CHIEF UNITED STATES DISTRICT JUDGE

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