

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ROBERT E. CARUSO and SANDRA L.
FERGUSON,

Case No. C17-00003RSM

Plaintiffs,

MINUTE ORDER STRIKING PRO SE
FILINGS

V.

WASHINGTON STATE BAR
ASSOCIATION, *et al.*,

Defendants.

The following MINUTE ORDER is made by direction of the Court, the Honorable Ricardo S. Martinez, Chief United States District Judge: On June 8, 2017, Plaintiff Sandra L. Ferguson filed a “Withdrawal and Substitution of Counsel” and noted it as a same-day motion. Dkt. #38. That same day, Ms. Ferguson filed a Motion to Vacate Judgment and Amend Pleading, a declaration in support of that Motion, and over 500 pages of exhibits. Dkts. #37, #39, and #40. Ms. Ferguson erroneously noted her declaration and exhibits as motions. *See* Dkts. #39 and #40. Ms. Ferguson, an attorney, personally filed these documents using the Court’s CM/ECF system.

1 Ms. Ferguson and co-plaintiff Robert E. Caruso are still represented by their counsel of
2 record, Stephen K. Eugster. *See* Docket. However, Mr. Eugster is currently suspended from
3 the practice of law before this Court. *See* Case No. 2:17-rd-00022-WTM, Dkt. #4.

4 “With the exception of a change of counsel within the same law firm, no attorney shall
5 withdraw an appearance in any case, civil or criminal, except by leave of court.” LCR
6 83.2(b)(1). “A motion for withdrawal shall be noted in accordance with LCR 7(d)(3).” *Id.*
7 “When a party is represented by an attorney of record in a case, the party cannot appear or act
8 on his or her own behalf in that case, or take any step therein, until after the party requests by
9 motion to proceed on his or her own behalf, certifies in the motion that he or she has provided
10 copies of the motion to his or her current counsel and to the opposing party, and is granted an
11 order of substitution by the court terminating the party’s attorney as counsel and substituting
12 the party in to proceed *pro se*...” LCR 83.2(b)(4). “When an attorney suddenly becomes
13 unable to act in a case due to death, incapacity, removal or suspension, the party for whom he
14 or she was acting as attorney must, before any further proceedings are had in the action on his
15 or her behalf... (i) appoint another attorney who must enter an appearance in accordance with
16 subsection (a) or (ii) seek an order of substitution to proceed *pro se* in accordance with
17 subsection (b)(4).” LCR 83.2(b)(5).

18 Ms. Ferguson has violated Local Rule 83.2(b)(4) by filing her Motion to Vacate
19 Judgment and Amend Pleading before she has been granted an order of substitution by the
20 Court. Although she has attempted to proceed *pro se*, Ms. Ferguson’s simultaneously-filed
21 “Withdrawal and Substitution of Counsel” does not move the Court for relief and provides no
22 explanation for the withdrawal and substitution. Instead, it is clearly drafted as a notice. *See*
23 Dkt. #38 at 2 (“Please Take Notice”). Although a notice of withdrawal is permitted where
24

1 there has simply been a change of counsel within the same law firm, *see* LCR 83.2(b)(2), it is
2 not a valid mechanism for a party to proceed *pro se* after the suspension of their counsel of
3 record. Even if Ms. Ferguson had drafted this as a motion instead of a notice, she failed to note
4 it for consideration three Fridays out under Local Rule 7(d)(3), thus denying Defendants an
5 opportunity to respond.
6

7 Given all of the above, the Court STRIKES the Notice of Withdrawal and Substitution
8 of Counsel (Dkt. #38), the Motion to Vacate Judgment and Amend Pleading (Dkt. #37), and the
9 declaration and exhibits erroneously noted as motions (Dkts. #39 and #40). Ms. Ferguson is
10 not permitted to take any action in this case, other than submitting a proper motion under Local
11 Rule 83.2(b)(4), unless or until she is granted leave to proceed *pro se*. Nothing in this Minute
12 Order prevents Ms. Ferguson from refiling her Motion to Vacate Judgment and Amend
13 Pleading and supporting documents after an order permitting her leave to proceed *pro se* is
14 issued.
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16 The Clerk shall mail a copy of this Minute Order to:
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18 Sandra L. Ferguson
19 The Ferguson Firm
20 The Pioneer Building
21 600 First Avenue
22 Seattle, WA 98104

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24 DATED this 8th day of June, 2017.

25 WILLIAM McCOOL, Clerk
26

27 By: /s/ Rhonda Stiles
28 Deputy Clerk