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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT TACOMA

8 WESTERN BOXED MEATS
9 DISTRIBUTORS, INC., et al.,

10 Plaintiffs,

11 v.

12 WILLIAM L. PARKER, et al.,

13 Defendants.

CASE NO. C17-5156 BHS

ORDER GRANTING MOTION
FOR LEAVE TO WITHDRAW

14 This matter comes before the Court on the motion for leave to withdraw of
15 Defendants' counsel. Dkt. 30. The Court grants the motion.

16 On August 10, 2017, Defendants' counsel moved to withdraw. Dkt. 30. On August
17 21, 2017, Plaintiffs filed a response in opposition to withdrawal. Dkt. 32. On August 25,
18 2017, Defendants' counsel replied. Dkt. 36. Notably, Defendants have not objected to the
19 withdrawal. Plaintiffs contend that the withdrawal would unfairly prejudice them because
20 they have outstanding discovery requests for which responses are due on September 5,
21 2017. Dkt. 32 at 2.
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1 There are numerous factors the Court may consider “when evaluating a motion to
2 withdraw, including (1) the reasons why withdrawal is sought; (2) the prejudice
3 withdrawal may cause to other litigants; (3) the harm withdrawal might cause to the
4 administration of justice; and (4) the degree to which withdrawal will delay the resolution
5 of the case.” *Curtis v. Illumination Arts, Inc.*, C12-0991JLR, 2014 WL 556010, at *4
6 (W.D. Wash. Feb. 12, 2014).

7 Defendants’ counsel seeks to withdraw because Defendants are no longer capable
8 of paying attorney fees. Dkt. 36 at 2. Courts regularly find that a client’s inability to pay
9 fees constitutes good cause for withdrawal of counsel. *See, e.g., McNally v.*
10 *Commonwealth Fin. Sys., Inc.*, 12-CV-2770-IEG MDD, 2013 WL 685364, at *1 (S.D.
11 Cal. Feb. 25, 2013) (“Defendant’s consent and inability to pay fees establish good cause
12 for withdrawal.”). Plaintiffs oppose the proposed withdrawal of counsel based primarily
13 on the prejudice that they will supposedly face by delayed discovery responses. *See* Dkt.
14 32. Their arguments as to the other applicable factors are admittedly speculative and
15 tenuous. *See id.*

16 Ultimately, the Court disagrees with Plaintiffs’ analysis of the prejudice factor and
17 finds that withdrawal is warranted. Should discovery responses not be timely produced
18 by Defendants, Plaintiffs have sufficient means to cure any potential prejudice through
19 the discovery-related Federal Rules of Civil Procedure. Plaintiffs have therefore failed to
20 overcome the presumption that attorneys “will ordinarily be permitted to withdraw until
21 sixty days before the discovery cut off date in a civil case.” W.D. Wash. Local Rules
22 LCR 83.2(b)(1).

1 Additionally, it is important to note that, while the withdrawal of counsel could
2 prejudice Defendant Double B Food Distributors, LLC, (“Double B”), Defendants have
3 not objected to the motion to withdraw. The lack of any opposition to such motion is
4 properly construed as an admission of merit. W.D. Wash. Local Rules LCR 7(b)(2)
5 (“Except for motions for summary judgment, if a party fails to file papers in opposition to
6 a motion, such failure may be considered by the court as an admission that the motion has
7 merit.”). Counsel has already warned Double B that failure to promptly retain substitute
8 counsel will risk the entry of default in this action. *See* Dkt. 31. Although the Court
9 grants the motion to withdraw, it once again emphasizes the risk of default to Double B.

10 Therefore, the motion for leave to withdraw (Dkt. 32) is **GRANTED**.

11 **IT IS SO ORDERED.**

12 Dated this 31st day of August, 2017.

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15 BENJAMIN H. SETTLE
16 United States District Judge
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