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18 **IN THE UNITED STATES DISTRICT COURT**
19 **FOR THE DISTRICT OF ARIZONA**

20 Manuel de Jesus Ortega Melendres,)
21 et al.,)

22 Plaintiff(s),)

23 v.)

24 Joseph M. Arpaio, et al.,)

25 Defendants(s).)

CV-07-2513-PHX-GMS

**PLAINTIFFS' RESPONSE TO
APPLICATION TO WITHDRAW
AS COUNSEL OF RECORD
FOR DEFENDANTS**

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1 Plaintiffs respectfully submit the following response to the application by the
2 Schmitt, Schneck, Smyth, Casey & Even, P.C. law firm and its members, Tim Casey and
3 James Williams, to withdraw as counsel of record for the Defendants. (Dkt. No. 773.)

4 The moving party (“the Schmitt firm”) does not specify reasons for its motion
5 to withdraw as counsel, other than to cite Local Rule (Civil) 83.3(b)(1), which refers to
6 withdrawal of counsel with the consent of the client.

7 Although a motion to withdraw as counsel must comply with [Rule] 83.3,
8 compliance with the Rule does not guarantee that counsel will be permitted to
9 withdraw. Rather, this Court retains wide discretion in a civil case to grant or
10 deny counsel's motion to withdraw. *Le Grand v. Stewart*, 133 F.3d 1253, 1269
11 (9th Cir. 1998); *Ohntrup v. Firearms Center, Inc.*, 802 F.2d 676, 679 (3d Cir.
12 1986); *Stair v. Calhoun*, 2010 WL 2670828, at 2 (E.D.N.Y. 2010) (“Whether to
13 grant or deny a motion to withdraw as counsel falls to the sound discretion of
14 the trial court.”) (citation and internal quotation marks omitted). Factors that a
15 district court should consider when ruling upon a motion to withdraw as counsel
16 include: (1) the reasons why withdrawal is sought; (2) the prejudice withdrawal
may cause to other litigants; (3) the harm withdrawal might cause to the
administration of justice; and (4) the degree to which withdrawal will delay the
resolution of the case. *In re Ryan*, 2008 WL 4775108, at *3 (D. Or. Oct. 31,
2008) (citing *Irwin v. Mascott*, 2004 U.S. Dist. LEXIS 28264 at 4 (N.D. Cal.
Dec. 1, 2004)).

17 *Bohnert v. Burke*, No. CV-08-2303-PHX-LOA, 2010 WL 5067695, at *1 (D. Ariz. Dec.
18 7, 2010); *accord Gagan v. Monroe*, No. CV 99-1427-PHX-RCB, 2013 WL 1339935, at
19 *4 (D. Ariz. Apr. 1, 2013).

20 Plaintiffs submit that the immediate withdrawal of the Schmitt firm would result
21 in prejudice to Plaintiffs and to the efforts of both parties to comply with the Court’s
22 orders, including the Supplemental Permanent Injunction of October 2, 2013.

23 Specifically, the Schmitt firm has been engaged in (1) development and implementation
24 of training curricula, including the resolution of questions arising from training sessions
25 currently underway and still-pending work on the training curriculum for supervisors
26 required under Paragraphs 52-53 of the Supplemental Permanent Injunction; and (2)
27 production of documents from the Armendariz and related investigations by MCSO.

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1 Both of these areas of ongoing work involve command of past negotiations and
2 work by the parties and counsel, as well as intimate knowledge of the factual and legal
3 issues litigated over the course of years in this case. The immediate withdrawal of the
4 Schmitt firm, prior to the conclusion of these efforts, will be detrimental to the
5 Defendants' compliance with the Court's orders.

6 Plaintiffs therefore request that the Court delay the withdrawal of the Schmitt
7 firm for a limited time period and for a limited purpose, so that the Schmitt firm may
8 conclude its work on these specific efforts. In the alternative, Plaintiffs request that the
9 Court condition any order granting the application for withdrawal of counsel upon the
10 Schmitt firm's continued availability to defense counsel to consult on these limited
11 matters. Plaintiffs note the Court's previous similar order with respect to the withdrawal
12 of prior defense counsel, the Ogletree Deakins law firm. *See* Tr. of Oct. 1, 2010 Status
13 Conf. 13:1-22 ("And I am not going to say that I'm going to hold you in this matter
14 permanently, but I'm not going to let you out until such time as such depositions I order
15 are completed, so that you are available to Mr. Liddy and to his client and your client to
16 assist them in the preparation of the depositions concerning the contents of other
17 documents.").

18
19 RESPECTFULLY SUBMITTED this 3rd day of November, 2014.

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21 By: /s/ Cecillia D. Wang

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CERTIFICATE OF SERVICE

I hereby certify that on November 3, 2014, I electronically transmitted the attached document to the Clerk's office using the CM/ECF System for filing and caused the attached document to be e-mailed to:

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/s/ Cecillia D. Wang