

13.2.1 Motion to Withdraw As Counsel Based on an Irretrievable Breakdown in Communication Between Attorneys and Client

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CONSUMER CLIENT, §
Plaintiff §
vs. § CIVIL ACTION NO. _____
COLLECTION AGENCY, § JURY DEMAND
Defendant §

MOTION FOR LEAVE TO WITHDRAW AS COUNSEL

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW Dana Karni and the Law Office of Richard Tomlinson and file this motion for leave to withdraw as counsel, and in support thereof would show the following:

1. Dana Karni and the Law Office of Richard Tomlinson ask this court to allow them to withdraw as attorneys for Plaintiff, CONSUMER CLIENT.
2. This District has recently ruled that “[t]he court may permit withdrawal of counsel upon motion and under whatever conditions the court finds necessary to prevent delay.” *Tepeyac v. Robbins Motor Transportation, Inc.*, 2006 U.S. Dist. LEXIS 90000, *25 (S.D. Tex. 2006), citing Local R. S.D. Tex. 83.2. See Exhibit A. In *Tepeyac*, Magistrate Judge Smith cited Fifth Circuit precedent permitting withdrawal of counsel if the prosecution of a lawsuit would not be stalled and if good cause is shown. *Id.*, citing *Broughten v. Voss*, 624 F.2d 880, 882-883 (5th Cir. 1981).
3. In the instant matter, the undersigned counsel maintains that the prosecution of this lawsuit will not be disrupted by withdrawal of Plaintiff’s counsel. A trial date has not been set and the initial pretrial conference is currently set for _____, 2007.
4. There is good cause for this court to grant the motion to withdraw. Specifically, an irretrievable breakdown in communication between attorneys and client have resulted in a fundamental disagreement as to the prosecution of this matter. See Declaration of Dana Karni attached hereto as Exhibit B.
5. The Plaintiff has not selected a substitute attorney and is opposed to this motion.
6. Dana Karni has delivered a copy of this motion to Plaintiff and has notified her, in writing by certified, regular and electronic mail as indicated in the Certificate of Service.
7. Plaintiff’s last known physical address is _____, Houston, Texas 770____ and last known electronic address is _____.
8. The following is a list of all pending settings and deadlines in this case:

- Initial Pre-Trial Conference is set for _____, 2007.
- Per Order for Conference:

“Initial Disclosure may not be delayed. Documents and other disclosures must be exchanged, reviewed, and discussed with opposing counsel well before the conference.”

9. For these reasons, Dana Karni and the Law Office of Richard Tomlinson ask this court to grant this motion to withdraw.

Respectfully submitted,

/s/ Dana Karni
DANA KARNI
LAW OFFICE OF RICHARD TOMLINSON
State Bar No. 24044379
S.D. Texas Bar No. 592484
1 Greenway Plaza, Suite 325
Houston, Texas 77046
Telephone: (713) 627-2100
Facsimile: (713) 627-2101

CERTIFICATE OF SERVICE

I certify that I sent a copy of the Motion to Withdraw as Attorney in Charge to each person listed below on this ____ day of _____, 2007, by the method indicated next to their name.

/s/ Dana Karni
DANA KARNI

CONSUMER CLIENT, Plaintiff

Lane
Houston, Texas 770))

Certified Mail
First Class Mail
Electronic Mail

Compliance Counsel
COLLECTION AGENCY, Defendant
P.O. Box

Certified Mail
First Class Mail
Electronic Mail