

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

JANE DOE,

Plaintiff,

v.

CISSY STEELE, et al.,

Defendants.

Case No. 20-cv-1818-MMA (MSB)

**ORDER GRANTING DEFENSE
COUNSEL'S MOTION TO
WITHDRAW**

[Doc. No. 48]

Counsel for Defendant Cissy Steele (“Steele”), Douglas M. Wade (“Counsel”), moves to withdraw as counsel of record. *See* Doc. No. 48. As set forth in his motion and declaration, Counsel argues that Steele would better benefit from an attorney with a criminal defense background and Steele’s account with Counsel has been in arrears. *See* Doc. No. 48 at 1, 2, 4; Wade Decl., Doc. No. 48-2 ¶¶ 9, 11.¹ Counsel declares that he served the motion on Steele and opposing counsel. *See* Wade Decl., Doc. No. 52 ¶¶ 3–6; Wade Decl., Doc. No. 53 ¶ 3; *see also* CivLR 83.3.f.3. Given that no opposition brief

¹ All citations to electronically filed documents refer to the pagination assigned by the CM/ECF system.

1 was filed, *see* CivLR 7.1.e.2; *see also* CivLR 7.1.e.7, the Court finds that the motion is
 2 unopposed.

3 “An attorney may not withdraw as counsel except by leave of court,” *Darby v. City*
 4 *of Torrance*, 810 F. Supp. 275, 276 (C.D. Cal. 1992), and “[t]he decision to grant or deny
 5 counsel’s motion to withdraw is committed to the discretion of the trial court.” *Beard v.*
 6 *Shuttermart of Cal., Inc.*, No. 07-cv-594-WQH (NLS), 2008 WL 410694, at *2 (S.D. Cal.
 7 Feb. 13, 2008) (quoting *Irwin v. Mascott*, No. C 97-4737 JL, 2004 U.S. Dist. LEXIS
 8 28264, at *3 (N.D. Cal. Dec. 1, 2004)); *see also* Cal. R. Prof. Conduct Rule 1.16(c);
 9 CivLR 83.3.f.3. Courts consider the following when ruling on a motion to withdraw as
 10 counsel: “(1) the reasons why withdrawal is sought; (2) the prejudice withdrawal may
 11 cause to other litigants; (3) the harm withdrawal might cause to the administration of
 12 justice; and (4) the degree to which withdrawal will delay the resolution of the case.”
 13 *Beard*, 2008 WL 410694, at *2 (quoting *Irwin*, 2004 U.S. Dist. LEXIS 28264, at *4); *see*
 14 *also Murphy v. Teamsters Union Local 542*, No. 12-cv-340-MMA (BGS), 2013 WL
 15 12121235, at *1 (S.D. Cal. Jan. 4, 2013).

16 As to the first factor, Counsel argues that he seeks withdrawal because Steele
 17 would benefit from an attorney with criminal law experience. *See* Doc. No. 48 at 2, 4;
 18 Wade Decl., Doc. No. 48-2 ¶ 9. Additionally, Counsel notes that Steel’s account has
 19 been in arrears since January 1, 2021, despite several payment requests, which constitutes
 20 a breach of the agreement between Counsel and Steele. *See* Doc. No. 48 at 2, 4; Wade
 21 Decl., Doc. No. 48-2 ¶ 11. Under the California Rules of Professional Conduct, an
 22 attorney may withdraw if “the client by other conduct renders it unreasonably difficult for
 23 the lawyer to carry out the representation effectively” or “the client breaches a material
 24 term of an agreement with, or obligation, to the lawyer relating to the representation, and
 25 the lawyer has given the client a reasonable warning after the breach that the lawyer will
 26 withdraw unless the client fulfills the agreement or performs the obligation.” Cal. R.
 27 Prof. Conduct 1.16(b)(4)–(5); *see also* *Canandaigua Wine Co. v. Edwin Moldauer*, No.
 28 1:02-cv-06599 OWW DLB, 2009 WL 89141, at *2 (E.D. Cal. Jan. 14, 2009) (“Courts

1 have also held that the failure to pay attorney's fees may be grounds for withdrawal.").
2 The Court finds that Counsel has good reasons to seek withdrawal based on his and his
3 firm's lack of criminal law experience as well as Steele's failure to pay fees and costs.

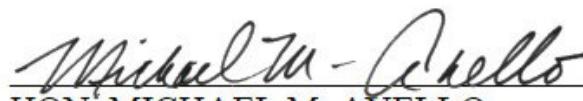
4 As to the second factor, Counsel argues that there will be no prejudice to the
5 parties because discovery has not taken place, there is no trial date, Steele has contacted a
6 potential new attorney, and the other parties in this action do not oppose Counsel's
7 motion. *See* Doc. No. 48 at 2, 4; Wade Decl., Doc. No. 48-2 ¶ 10. Given the current
8 stage of this action and the Magistrate Judge's recent order granting a joint motion for a
9 continuance, *see* Doc. No. 50, the Court finds that prejudice is minimal.

10 As to the third and fourth factors, Counsel argues that withdrawal would cause no
11 harm to the administration of justice and cause no delay to the action's resolution. *See*
12 Doc. No. 48 at 4. The Court finds the third and fourth factors weigh in favor of
13 Counsel's motion.

14 After reviewing the record and the reasons for withdrawal noted by Counsel, and
15 good cause appearing, the Court **GRANTS** Counsel's motion to withdraw. The Court
16 **VACATES** the June 7, 2021 hearing date. The Court **ORDERS** Counsel to provide a
17 copy of this Order to Defendant Steele. The Court **INSTRUCTS** Steele that failure to
18 retain new counsel will result in this action continuing with her proceeding pro se. *See*
19 CivLR 83.11. Accordingly, Steele must notify the Court if she intends to proceed pro se
20 on or before June 7, 2021; alternatively, if Steel chooses to retain new counsel, the new
21 counsel must file a notice of appearance on or before June 7, 2021.

22 **IT IS SO ORDERED.**

23
24 Dated: May 27, 2021

25 
26 HON. MICHAEL M. ANELLO
27 United States District Judge
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