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MONTGOMERY FAMILY TRUST

14 UNITED STATES DISTRICT COURT  
15 DISTRICT OF NEVADA

16 DENNIS MONTGOMERY and the  
17 MONTGOMERY FAMILY TRUST

18 Plaintiff

19 vs.

20 ETREPPID TECHNOLOGIES, LLC,  
WARREN TREPP, and the UNITED  
21 STATES DEPARTMENT OF DEFENSE

22 Defendants.

Case No. 3:06-CV-00056-PMP-VPC  
BASE FILE

(Consolidated with Case No. 3:06-CV-  
00145-PMP-VCP)

MOTION TO WITHDRAWL AS LOCAL

COUNSEL

23 \_\_\_\_\_/  
24 AND RELATED CASES.  
25 \_\_\_\_\_/  
26  
27  
28

1 Mark H. Gunderson, Esq. and Gunderson Law Firm ("Gunderson"), Nevada local counsel for  
 2 Liner Grode Stein Yankelevitz Sunshine Regenstreif & Taylor LLP ("Liner") legal counsel for  
 3 and Dennis Montgomery the Montgomery Family Trust and all of the entities for whom  
 4 Gunderson is local counsel including: Brenda Montgomery, Edra Bilxseth, and Opspring, LLC  
 5 ("Montgomery") seek an order from this Court permitting its withdrawal as Nevada local  
 6 counsel of record for Dennis Montgomery. This motion is based upon Supreme Court Rules 46,  
 7 Rule 1.16 of the Nevada Rules of Professional Conduct, and EDCR 7.40, the attached  
 8 memorandum of points and authorities, and the attached affidavit of counsel.

### 9 SUPPORTING POINTS AND AUTHORITIES

10 Nevada Supreme Court Rule 46(2) permits the attorney in an action to be changed prior to  
 11 judgment or final determination, "upon the order of the court or judge thereof on the application  
 12 of the attorney or client." Rule 1.16(b) of the Nevada Rules of Professional Conduct states, in  
 13 relevant part, that a lawyer may withdraw from representing a client if withdrawal can be  
 14 accomplished without material adverse effect on the interests of the client, the client fails to  
 15 substantially fulfill an obligation to the lawyer regarding the lawyer's services and has been  
 16 given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled, or the  
 17 representation will result in an unreasonable financial burden on the lawyer or has been rendered  
 18 unreasonably difficult by the client. *See* Nev. R. Prof. Conduct 1.16(b)(1), (5), & (6). In this  
 19 case, an irreconcilable conflict has arisen between Montgomery and Gunderson Law Firm, that  
 20 precludes counsel from continuing to represent Montgomery's interests in this case, as  
 21 Montgomery has failed to substantially fulfill its obligations to its counsel. The refusal by  
 22 Montgomery to fulfill its obligations to its counsel necessarily undermines counsel's ability to  
 23 represent Montgomery as required by Nevada's rules governing professional conduct, will render  
 24 counsel's representation unreasonably difficult, and will result in an unreasonable financial  
 25 burden on counsel. *See* Affidavit of Mark H. Gunderson, Esq., Exhibit 1. The attorney-client  
 26 privilege, however, precludes counsel from disclosing the specific nature of the conflicts which  
 27 have arisen. *Id.*

CONCLUSION

Based on the foregoing, and after careful consideration, discussion, review, and research by counsel, counsel has concluded that withdrawal is required in this matter pursuant to Rule 1.16 of the Nevada Rules of Professional Conduct. Therefore, counsel requests that this Court enter its order accordingly. If this Motion is granted, the last known address at which Montgomery may be served with notice of all further proceedings is:

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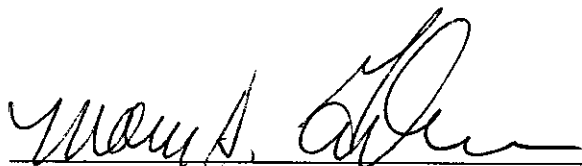
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DATED this 22nd day of April, 2009.

GUNDERSON LAW FIRM

By:



Mark H. Gunderson, Esq.  
Nevada State Bar No. 2134

**CERTIFICATE OF SERVICE**

Pursuant to FRCP 5(b), I certify that I am an employee of the GUNDERSON LAW FIRM, and that on the 22nd day of April, 2009, I caused to be served the within document described as **MOTION TO WITHDRAWL AS LOCAL COUNSEL** on the interested parties in this action as stated below:

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13 X **[ELECTRONIC]** By filing the document(s) electronically with the U.S. District Court and  
14 therefore the Court's computer system has electronically delivered a copy of the foregoing  
documents(s) to the persons listed above at their respective email address.

15  
16 I declare under penalty of perjury under the laws of the State of Nevada and the United States  
17 of American that the foregoing is true and correct. Executed on April 22nd, 2009 in Reno, Nevada.

18  
19   
20 Colleen Camenisch