

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>IMAGOS FILMS, LLC</b>	:	
<b>d/b/a IMAGOS SOFTWARES,</b>	:	<b>CIVIL ACTION</b>
<b>and DON THACKER,</b>	:	
<b>Plaintiffs,</b>	:	
	:	
<b>v.</b>	:	
	:	
<b>ALEX THOMAS MAUER,</b>	:	<b>No. 17-2964</b>
<b>Defendant.</b>	:	

**MOTION FOR LEAVE TO WITHDRAW AS COUNSEL**

Ryder, Lu, Mazzeo & Konieczny, LLC ("RLMK") and Frank A. Mazzeo, Esquire ("Attorney Mazzeo"), attorneys of record for defendant Alex Thomas Mauer, move for leave to withdraw their appearance as attorneys for Ms. Mauer. RLMK moves to withdraw because Ms. Mauer has terminated RLMK and Attorney Mazzeo.

Respectfully Submitted:

RYDER, LU, MAZZEO, & KONIECZNY, LLC

Dated: July 14, 2017

By: /FrankAMazzeo/  
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*Counsel for Defendant*

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<b>Defendant.</b>	:	

**MEMORANDUM OF LAW IN SUPPORT OF THE MOTION FOR LEAVE TO  
WITHDRAW AS COUNSEL**

In support of their Motion for Leave to Withdraw As Counsel, RLMK and Attorney Mazzeo hereby submit this Memorandum of Law.

**I. HISTORY OF THE CASE**

On June 30, 2017, plaintiffs Imagos Films, LLC d/b/a Imagos Softworks and Don Thacker (“Imagos”) brought this action against Alex Thomas Mauer alleging copyright infringement, as well as other claims. On July 11, 2017, Imagos filed an application for a temporary restraining order against Mauer (Doc. #5), a hearing for which was scheduled by this Court to take place on July 13, 2017. On July 12, 2017, Attorney Mazzeo, with RLMK, filed a request for a continuance of the scheduled temporary restraining order hearing on behalf of Mauer. On July 13, 2017, Attorney Mazzeo attended the temporary restraining order hearing before this Court on behalf of Mauer.

**II. COUNSEL IS MANDATED TO WITHDRAW IF DISCHARGED BY THE CLIENT UNDER THE PENNSYLVANIA RULES OF PROFESSIONAL CONDUCT**

The Pennsylvania Rules of Professional Conduct are relevant in the Court's determination of whether to allow withdrawal. *See Barefoot v. Direct Mktg. Concepts, Inc.*, 2004 WL 3186307, at \*1-2 (E.D. Pa. October 13, 2004) (applying Pennsylvania's Rules of Professional Conduct to Petition for Leave to Withdraw as Counsel). Pennsylvania Rule of Professional Conduct 1.16, in relevant part, provides:

(a) . . . [A] lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if:

. . . .

(3) the lawyer is discharged.

Pa. Rules of Prof'l Conduct 1.16 (2010).

**III. RLMK AND ATTORNEY MAZZEO'S WITHDRAWAL IS MANDATED BY PENNSYLVANIA RULE OF PROFESSIONAL CONDUCT 1.16(a)(3)**

RLMK's and Attorney Mazzeo's withdrawal is appropriate and in fact, mandatory, under Pennsylvania Rule of Professional Conduct 1.16(a)(3) because they have been expressly discharged by Mauer. Mauer told Attorney Mazzeo via text message that he and RLMK were terminated following the July 13, 2017 temporary restraining order hearing. The same day, Mauer sent a letter to this Court restating and confirming her discharge of RLMK and Attorney Mazzeo, specifically that "Mr. Mazzeo is fired and needs to formally withdraw from the case." Mauer sent a photograph of this letter to Attorney Mazzeo via email, which is attached hereto as Exhibit A.

Understanding himself and RLMK to have been discharged as counsel for Mauer, Attorney Mazzeo sent a letter to Mauer on July 13, 2017 reporting the deadline for her to answer or otherwise respond to the pending complaint in this action. Mauer forwarded this letter to the plaintiffs' counsel directly via email, in the body of which she stated again that RLMK and Attorney Mazzeo had been discharged. A copy of Mauer's email to the plaintiffs' counsel is attached hereto as Exhibit B.

In sum, Mauer has expressly discharged RLMK and Attorney Mazzeo and reiterated that fact to others, including taking it upon herself to communicate it directly to the plaintiffs' counsel. As such, RLMK and Attorney Mazzeo are prescribed to withdraw from representation of Mauer in this case under Pennsylvania Rule of Professional Conduct 1.16(a)(3).

#### **IV. THE CLIENT'S ACTIONS SUPPORT WITHDRAWAL UNDER PENNSYLVANIA RULE OF PROFESSIONAL CONDUCT 1.16(b)(7)**

Withdrawal is also permissible under Pennsylvania Rule of Professional Conduct 1.16(b)(7) if good cause for withdrawal exists. Here, Attorney Mazzeo's withdrawal is warranted by Mauer's disregard for the attorney-client relationship and refusal to follow legal advice given by Attorney Mazzeo.

Despite Attorney Mazzeo's warning not to communicate with plaintiffs' counsel directly, Mauer has been contacting plaintiffs' counsel on her own without corresponding through Attorney Mazzeo. In addition, Mauer has been posting or describing conversations between herself and Attorney Mazzeo on social media and otherwise commenting on Attorney Mazzeo on the internet. She has refused to follow Attorney Mazzeo's reasonable advice regarding possible settlement of the case and has behaved aggressively toward Attorney Mazzeo and RLMK staff.

Attorney Mazzeo has fulfilled all necessary duties set forth in Pennsylvania Rule 1.16(d). Pursuant to his duty under Pennsylvania Rule 1.16(d) to "take steps to the extent reasonably practicable to protect a client's interests," Attorney Mazzeo forwarded to Mauer relevant court filings, such as his letter to the Court requesting a continuance of the temporary restraining order hearing, and orders issued by this Court, and has advised Mauer of her deadline to answer or otherwise respond to the complaint in this action.

#### **IV. CONCLUSION**

Based upon the Pennsylvania Rules of Professional Conduct, RLMK and Attorney Mazzeo are mandated to withdraw from this case pursuant to having been expressly discharged and are further warranted in withdrawing. RLMK and Attorney Mazzeo respectfully request that the foregoing petition to withdraw as counsel be granted.

Respectfully Submitted:

RYDER, LU, MAZZEO, & KONIECZNY, LLC

Dated: July 14, 2017

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**PROPOSED ORDER**

AND NOW, this \_\_\_\_ day of \_\_\_\_\_, 2017, upon consideration of Ryder, Lu, Mazzeo & Konieczny LLC's and Frank A. Mazzeo's, Motion For Leave To Withdraw As Counsel for the defendant and accompanying brief in support thereof, it is hereby ORDERED and DECREED that said Motion is GRANTED.

**BY THE COURT**

\_\_\_\_\_  
**BERLE M. SCHILLER, J.**

**CERTIFICATE OF SERVICE**

The undersigned, hereby certifies that a true and correct copy of the foregoing MOTION FOR LEAVE TO WITHDRAW AS COUNSEL and accompanying memorandum of law in support thereof was served this date via U.S. Mail and ECF upon the following:

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