

reasonable time frame. See RPC Rule 1.16(b)(6). Plaintiff has ignored several attempts by counsel to review and return signed documents necessary for litigation, including a medical authorization and settlement forms. From November 2015 to May 2016 counsel made numerous attempts to contact Plaintiff by telephone and email for the return of a signed medical authorization needed to continue her litigation. Contact attempts were made during different days of the week and at different times of day. None of these attempts were successful. Once Plaintiff was finally reached in May of 2016, she advised counsel she would send in the needed authorization as soon as possible. It wasn't until May 23, 2016, after several months of continued solicitation by counsel, that Plaintiff returned the signed authorization.

5. Additionally, Plaintiff has failed to return signed settlement documents in the above captioned action. Attempts by counsel at obtaining the forms from Plaintiff have either been ignored or met with resistance. These settlement documents were initially sent to Plaintiff via Federal Express on March 9, 2017. Subsequently counsel attempted to contact Plaintiff, via phone and email, to request prompt review and return of the signed forms. On March 23, 2017 Plaintiff emailed counsel explaining that she had previously moved and asked that the forms be resent to her new address. At that time she advised counsel that she "would take a look" at the forms but was "getting uncomfortable sending ...[additional] private information." In response to Plaintiff's email, the Tylenol settlement release was resent to client's new address via Federal Express. Counsel then sent a reply email to plaintiff explaining to her the timeframe for mass tort cases. She was also informed that the settlement release forms were resent to her and counsel requested that she review, read, and return the signed settlement release forms as soon as possible as to comply with imposed deadlines. Over the next couple of weeks, counsel tried several times to contact Plaintiff by phone and email for return of the documents. Plaintiff finally responded on April 6, 2017, stating that she "ha[s] been nothing but cooperative... [and has]

filled out the same forms over and over again.” She explained that she would not be able to get to them before the deadline. Counsel promptly responded by assuring Plaintiff that these forms were different than ones she had previously filled out, reminding her of the importance of the deadline, and advising that she read and return them as soon as possible. The following day, April 7, 2017, Plaintiff, after reviewing the forms, contacted counsel to ask for the exact amount she will receive in her claim. Counsel responded by explaining that exact amount was not yet available and advised Plaintiff to review and return the settlement release documents immediately to comply with the deadline. Three days later, on April 10, 2017, Counsel again emailed Plaintiff to notify her that the deadline for settlement opt-in was extended to April 21, 2017. At that time Plaintiff advised counsel that she was not comfortable signing the forms and giving up future claims against the defendant in the above captioned action. In response, counsel advised Plaintiff via email and mail that if she chooses not to opt-in to the settlement, Counsel would not be able to continue to represent her. Counsel advised she must notify the court and comply with Case Management Order (CMO) 19. Several calls, text messages, emails and letters have been sent to Plaintiff since last contact, April 10, 2017, all with no reply. To date, Plaintiff has failed to communicate with counsel, comply with CMO 19, or return the signed settlement documents. As such, counsels’ ability to represent Plaintiff has been severely compromised, and rendered unreasonably difficult, therefore supporting this request to withdraw consistent with the applicable provisions of Rule 1.16 of the RPC.

6. Plaintiff has failed substantially to fulfil an obligation to counsel regarding counsels’ services and has been given reasonable warning of counsels’ intent to withdraw unless the obligations are fulfilled. See RPC Rule 1.16(b)(5). Plaintiff has failed to cooperate and communicate with counsel in the above captioned action. Over the past few months counsel has made numerous attempts to contact Plaintiff, all without response. Since last contact at the

beginning of April of 2017, counsel has called and sent emails, text messages and letters. Prior to the most recent efforts, since 2015, dozens of calls, text messages, emails and letters have been sent to Plaintiff with responses in only a few instances. These contacts were attempted during different days of the week and times of day. Additionally, counsel has been forced to request several skip-trace searches to obtain the current contact information for Plaintiff. The inability of counsel to communicate with Plaintiff, because of Plaintiff's failure to provide updated contact information or return the calls or emails from counsel, contradicts a guideline agreed to by Plaintiff that requires her to keep in communication with counsel and informed of any changes to her contact information. This lack of communication has forced counsel to spend significantly more time and resources than reasonable in attempting to contact client.

7. Plaintiff insists on a course of action with which counsel has a fundamental disagreement. See RPC Rule 1.16(b)(4). Plaintiff has advised counsel, through email correspondence, that she is not comfortable signing the settlement documents and giving up future claims against the defendants in the above captioned action. Counsel advised Plaintiff that, in their opinion, participating in the settlement program was the best way to try and secure compensation for her injuries. Plaintiff was informed that if she wishes to participate in the program, she must return the signed settlement forms as soon as possible. Plaintiff has not responded. Counsel, on numerous occasions between April 2017 and July 2017, instructed Plaintiff that a course of action is needed and if she wishes to reject the settlement offer, as expressed in a previous message sent to our office, she must notify the Court and comply with CMO 19. Counsel explained to Plaintiff that failure to comply with requirements imposed by the Court could result in an unfavorable conclusion in her case. To date, Plaintiff, ignoring the advice of counsel, has not produced the documents necessary to inform the Court of her intent in the above captioned action.

8. The undersigned attorneys are agreeable to allow Plaintiff time to employ other counsel. The undersigned attorneys also have no objection to Plaintiff requesting that appropriate papers to which Plaintiff is entitled to be surrendered by the undersigned attorneys either directly to Plaintiff or to a new attorney of Plaintiff's choosing, or for Plaintiff to advise the undersigned attorneys that Plaintiff no longer desires to pursue this litigation.

9. Counsel desires to inform Plaintiff of the intent to withdraw as counsel of record. Accordingly, contemporaneously with the filing of this Motion, a copy of this Motion and proposed Order will be sent by certified mail, return receipt requested, and by regular mail as noted in the attached Certificate of Service, to the last known address of Plaintiff, Lisa Koch, at 9393 N 90th St., 102252, Scottsdale, Arizona 85258.

10. Counsel suggest that upon the filing of this Motion along with the attached Certificate of Service showing that a copy has been sent to Plaintiff's last known address, that after the expiration of an amount of time for Plaintiff to respond to this Motion that the Court deems appropriate, such as, twenty (20) calendar days, that if no response is made by Plaintiff, that an Order be entered on the docket that the undersigned attorneys and law firm are withdrawn as attorneys in this case. The undersigned attorneys further suggest that the Order also provide that within forty-five (45) days after its entry, that either an appearance of new counsel must be entered on the docket for Plaintiff, or a notification be made by Plaintiff of her desire to proceed *pro se*. In the event Plaintiff states on the record an intent to proceed *pro se* it is suggested that the Order also state that she must provide on the docket an address at which service of notices or other papers may be completed upon her. Finally, the undersigned attorneys suggest that the Order provide that in the event Plaintiff fails to comply with the requirements of the Order, that the Order contain language advising Plaintiff that such failure may result in a further Motion to be filed by Defendants for dismissal of the case for a failure to prosecute by the Plaintiff.

11. The undersigned attorneys are prepared to comply with the requirements of RPC Rule 1.16(d) by providing appropriate papers to which Plaintiff is entitled to be surrendered either directly to Plaintiff or to new counsel of Plaintiff's choosing.

12. The undersigned attorneys have communicated with counsel for Defendants about the filing of this Motion and the proposed Order that would afford Plaintiff an opportunity to retain new attorneys or to appear *pro se*, and counsel for Defendants have stated they have no objection to this Motion.

WHEREFORE, undersigned counsel prays this Court enter an Order granting this Motion for Leave to Withdraw as Counsel.

Dated: July 28, 2017

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CERTIFICATE OF SERVICE

I certify that I have caused the foregoing to be filed with the Clerk of the Court via Federal Express this 28th day of July, 2017. Additionally, a true and correct copy of this Motion to Withdraw as Counsel has been mailed to the last known address of Lisa Koch, at 9393 N 90th St., 102252, Scottsdale, Arizona 85258 via Federal Express and regular mail.

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