

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

GEORGE T. KELLY, III, individually)
and on behalf of all others similarly)
situated,)

Plaintiff,)

v.)

THE ALIERA COMPANIES, INC.;)
formally known as Alieria Healthcare, Inc.,)
a Delaware corporation, and TRINITY)
HEALTHSHARE, a Delaware Corporation,)

Defendants.)

Civil Action No.
3:20-CV-05038-MDH

MOTION TO WITHDRAW AS COUNSEL

Robert H. Rutherford, Elizabeth B. Shirley, Sarah R. Craig and the law firm of Burr & Forman LLP (collectively, "Movants"), hereby respectfully move this Honorable Court to enter an Order allowing Movants to withdraw as counsel of record for Defendant The Alieria Companies Inc., f/k/a Alieria Healthcare, Inc. ("Alieria"), stating as follows:

1. Movants request that the Court grant this Motion to Withdraw due to professional considerations. Continued representation of Alieria has and will result in unreasonable financial burden on counsel, and Alieria substantially failed to fulfill its obligations to Movants regarding Movants' services. Additionally, representation has been rendered unreasonably difficult by Alieria.

2. Movants request that Alieria be granted at least thirty (30) days in which to hire new counsel.

3. Movants also request that, for all upcoming deadlines in the next thirty (30) days from the date this Court enters an order ruling on this Motion, the Court allow an extension of at least sixty (60) days for such upcoming deadlines.

4. Movants certify that they have advised Alieria that it is required by law to be represented by an attorney admitted to practice before this Court and that failure to obtain a replacement attorney by the date the withdrawal is effective may result in the dismissal of Alieria's claims for failure to prosecute and/or entry of default against Alieria as to any claims of other parties. Movants further certify that this Motion is being served contemporaneously on Alieria at its last known business address and on opposing counsel. Additionally, Movants certify that they served the attached Notice of Withdrawal on Alieria, which advises Alieria of Movants' intention to withdraw. (*See* Exhibit A attached hereto.)

5. It is unknown whether, upon granting this Motion, Alieria will be unrepresented. Alieria's last known business address and phone number are as follows:

The Alieria Companies Inc.
990 Hammond Dr. NE, Suite 700
Atlanta, GA 30328
Telephone: 404-618-0602

WHEREFORE, Movants respectfully request that this Motion to Withdraw be granted.

This the 4th day of October, 2021

Respectfully submitted,

/s/ Elizabeth B. Shirley (pro hac vice)
Robert H. Rutherford (pro hac vice)
Elizabeth B. Shirley (pro hac vice)
BURR & FORMAN LLP
420 North 20th Street
The Shipt Tower, Ste. 3400
Birmingham, Alabama 35203

Telephone: (205)251-3000
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rrutherford@burr.com
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*Attorneys for Defendant
The Alieria Companies Inc.*

OF COUNSEL

Sarah R. Craig, Esq. (pro hac vice)
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201 North Franklin Street, Ste. 3200
Tampa, Florida 33602
Telephone: (813) 367-5766
Facsimile: (813) 221-7335
sraig@burr.com
*Attorneys for Defendant,
The Alieria Companies Inc.*

CERTIFICATE OF SERVICE

I hereby certify that on October 4, 2021, I electronically filed the foregoing Motion to Withdraw as Counsel with the Court's CM/ECF system, which will cause a true and correct copy of the same to be served electronically on all registered counsel of record. I certify that notice is being sent via U.S. First Class Mail to Alieria its last known business address:

The Alieria Companies Inc.
990 Hammond Dr. NE, Suite 700
Atlanta, GA 30328

/s/ Elizabeth B. Shirley
OF COUNSEL

Exhibit A

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**GEORGE T. KELLY, III, individually
and on behalf of all others similarly
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Plaintiff,)

v.)

THE ALIERA COMPANIES, INC.;)
formally known as Alieria Healthcare, Inc.,)
a Delaware corporation, and TRINITY)
HEALTHSHARE, a Delaware Corporation,)

Defendants.)

**Civil Action No.
3:20-CV-05083-MDH**

TO: THE ALIERA COMPANIES INC.

DATED: September 24, 2021 (sent via U.S. Mail to last known business address, registered agent for service of process in Georgia, and email of CEO, Shelley Steele)

PLEASE TAKE NOTICE:

(A) As previously discussed, Burr & Forman LLP is requesting permission of the Court to withdraw from representing The Alieria Companies Inc. (“Alieria”) and all related subsidiaries, officers, and directors in the above-styled action. Counsel also is requesting permission of the Court to withdraw from representation of Alieria in the appeal concerning this matter, pending before the United States Court of Appeals for the Eighth Circuit, No. 20-3702;

(B) The Court retains jurisdiction over the action;

(C) Alieria has an obligation to keep the Court informed of a location where notices, pleadings, or other papers may be served;

(D) To the extent a trial date may be set, Alieria has an obligation to prepare for trial or hire other counsel to prepare for trial;

(E) Failure or refusal to satisfy court-related obligations could result in adverse consequences including, in criminal cases, bond forfeiture and arrest;

(F) There are no upcoming scheduled proceedings or trial that would be affected by withdrawal of counsel;

(G) Notices may be served on Alieria at Alieria's last known address, 980 Hammond Dr., Suite 700, Atlanta GA 30328;

(H) Since Alieria is a corporation or organization, it may only be represented by an attorney, who must sign all pleadings and papers submitted to the Court; a corporate officer may not represent the client unless that officer is admitted to the bar of this Court as a regular member or has been admitted *pro hac vice* in the case; and failure to comply with this rule could result in a default judgment against the client; and

(I) Names, addresses and phone numbers of Clerk of Court and opposing counsel:

Clerk of Court:

United States Courthouse
222 N. John Q. Hammons Parkway
Springfield, MO 65806
Telephone: 417-865-3869

Opposing counsel:

Jay B. Angoff
Chaim E. Bronstein
Cyrus Mehri
Mehri & Skalet PLLC
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Ste. 300
Washington, DC 20036
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Myers & Company PLLC
1530 Eastlake Ave. E.
Seattle, WA 98102
Telephone: 206-398-1188

Submitted on September 24, 2021 by:

BURR & FORMAN, LLP
171 17th St. NW, Suite 1100
Atlanta, GA 30363
Telephone: 404-815-3000

420 20th St. N., Suite 3400
Birmingham AL 35203
Telephone: 205-251-3000

BURR ••• FORMAN LLP

results matter

171 Seventeenth Street, N.W., Suite 1100
Atlanta, Georgia 30363

FIRST CLASS

The Alera Companies Inc.
c/o CT Corporation System
289 S Culver Street
Lawrenceville, Georgia 30046