

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

NOELLE LECANN, KRISTIN
SELIMO, and TANIA FUNDUK, on
behalf of themselves and all others
similarly situated,

Plaintiffs,

v.

THE ALIERA COMPANIES, INC.,
formerly known as ALIERA
HEALTHCARE, INC.,

Defendant.

CIVIL ACTION FILE

No. 1:20-cv-2429-AT

MOTION TO WITHDRAW AS COUNSEL

Sarah R. Craig, Elizabeth B. Shirley, Kevin R. Stone and the law firm of Burr & Forman LLP (collectively, "Movants"), hereby respectfully move this Honorable Court to enter an order allowing Movants' withdrawal as counsel of record for Defendant The Alieria Companies Inc. ("Alieria") after resolution of Plaintiffs' Motion for Clerk's Entry of Default, (Dkt. 67), and Defendants' Motion to Set Aside Clerk's Entry of Default, (Dkt. 70), 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. This request, however, does not apply to Plaintiffs' Motion for Clerk's Entry of Default, (Dkt. 67), and Defendants' Motion to Set Aside Clerk's Entry of Default, (Dkt. 70), as Counsel intends to continue representation until those matters are resolved.

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 judgment 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.

5. Movants certify that on September 24, 2021, they served the attached Notice of Withdrawal on Alieria, which advises Alieria of Movants' intention to withdraw and of the required information set out in LR 83.1(E). (*See* Exhibit A attached hereto.) Movants certify that they gave Alieria 14 days' notice of Movants' intention to request permission to withdraw. (Ex. A.)

6. Counsel is unaware of substitute counsel who may file a notice of appearance on behalf of Alieria, and Counsel has advised Alieria of the risks of not obtaining substitute counsel. 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

7. Plaintiffs' counsel does not oppose this Motion.

8. Per the Court's Standing Order, Section III(k), Movants suggest a telephone conference with the Court and counsel of record to discuss any issues or concerns that may be raised in conjunction with this Motion.

WHEREFORE, Movants respectfully request that this Motion to Withdraw be granted after resolution of Plaintiffs' Motion for Clerk's Entry of Default, (Dkt. 67), and Defendants' Motion to Set Aside Clerk's Entry of Default, (Dkt. 70).

Respectfully submitted,

/s/ Elizabeth B. Shirley

Elizabeth B. Shirley (*pro hac vice*)

Burr & Forman LLP

420 20th Street North, Suite 3400

Birmingham, Alabama 35203

Telephone: 205-251-3000

Email: bshirley@burr.com

Kevin R. Stone

Georgia Bar No. 830640

Burr & Forman LLP

171 17th Street NW, Suite 1100

Atlanta, Georgia 30363

Phone: (404) 815-3000

Email: kstone@burr.com

**Counsel for Defendant The Alera
Companies Inc.**

CERTIFICATE OF COMPLIANCE

Counsel certifies that this document has been prepared with Times New Roman 14 type, one of the font and point selections approved by the Court in LR 5.1.

/s/ Elizabeth B. Shirley

Elizabeth B. Shirley

CERTIFICATE OF SERVICE

A copy of the foregoing has been served this 11th day of October, 2021 via the Court's CM/ECF system, which will send notification of such filings to all parties of record via electronic mail. I certify that notice is being sent via U.S. First Class Mail to Alera its last known business address:

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

/s/ Elizabeth B. Shirley
OF COUNSEL

Exhibit A

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NOTICE OF WITHDRAWAL

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 Eleventh Circuit, No. 21-12472-DD;

(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) The dates of any scheduled proceedings, including trial, are reflected on the scheduling order enclosed herewith, and these dates will not be affected by the 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) Alieria has a right to object within 14 days of the date when notice of the attorney's intention to request permission to withdraw was served.

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

Clerk of Court:

Kevin P. Weimer
Richard B. Russell Federal Building
2211 United States Courthouse
75 Ted Turner Drive, SW
Atlanta, GA 30303-3309
Telephone: (404) 215-1600

Opposing counsel:

Jennifer Kathleen Coalson
David F. Walbert
Parks Chesin & Walbert, P.C.
Suite 2600
75 Fourteenth Street, N.E.
Atlanta, GA 30309
Telephone: 404-873-8000

Stephen J. Fearon, Jr.
Paul V. Sweeny
Squitieri & Fearon, LLP
424 Madison Avenue
3rd Floor
New York, NY 10017
Telephone: 212-421-6492

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

Enclosure

**IN THE UNITED STATES DISTRICT COURT
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[PROPOSED] ORDER

THE COURT, having considered counsel for The Alieria Companies Inc.’s (“Alieria”) Motion to Withdraw and the facts and arguments contained therein, finds that the Motion is well-taken and should be granted.

ACCORDINGLY, the Court hereby GRANTS Burr & Forman LLP’s Motion to Withdraw and FINDS AND ORDERS that Sarah R. Craig, Elizabeth B. Shirley, Kevin R. Stone and the law firm of Burr & Forman LLP are discharged and terminated as counsel of record for Alieria in this matter after resolution of Plaintiffs’ Motion for Clerk’s Entry of Default, (Dkt. 67), and Defendants’ Motion to Set Aside Clerk’s Entry of Default, (Dkt. 70).

THE COURT further finds that Alera shall have thirty (30) days from the date of this Order in which to hire new counsel, and that all upcoming deadlines in the next thirty (30) days from the date of this Order are extended for sixty (60) days from the date(s) of such deadlines. This extension does not apply to Plaintiffs' Motion for Clerk's Entry of Default, (Dkt. 67), and Defendants' Motion to Set Aside Clerk's Entry of Default, (Dkt. 70).

Dated _____, 2021

/s/ _____
UNITED STATES DISTRICT COURT JUDGE