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ATTORNEYS FOR THE ALIERA COMPANIES INC.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION**

<p>MARIA MOELLER and RON MOELLER,</p> <p>Plaintiffs</p> <p>vs.</p> <p>THE ALIERA COMPANIES INC.; TRINITY HEALTHSHARE; TIMOTHY MOSES; SHELLEY STEELE, CHASE MOSES and DOES 1-10,</p> <p>Defendants.</p>	<p>CIVIL ACTION NO: 6:20-cv-00022-SEH</p> <p>AMENDED MOTION TO WITHDRAW AS COUNSEL</p>
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Pursuant to Local Rule 83.3 and this Court's Order entered October 26, 2021, Doc. 228, Elizabeth B. Shirley, Sarah R. Craig, and the law firm Burr & Forman LLP, and Stefan T. Wall and the law firm of Wall, McLean & Gallagher, PLLC (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"), Defendant Shelley Steele, as an agent, officer, and in any other capacity, individually or otherwise ("Steele"), and Defendant Chase Moses, as an agent, officer, and in any other capacity, individually or otherwise ("Moses") (unless referred to separately herein, Steele and Moses are included in the reference to "Alieria"), stating as follows:

1. As set out in the Deed of Assignment filed by Alieria, Movants are significant creditors of Alieria. (Doc. 227-1, referred to herein as the "Assignment," at p. 8.) The Assignment lists Burr & Forman LLP (or "Burr") as a creditor of Alieria, with Alieria owing approximately \$1,518,422.06 based on the then-available records. (*See* Doc. 227-1, at p. 7.) The Assignment lists Wall, McLean & Gallagher, PLLC as a creditor of Alieria, with Alieria owing approximately \$22,348.99 based on the then-available records. (*Id.* at p. 8.)

2. Burr intends to submit a Notice of Claim with regard to the delinquent amounts in Alieria's Assignment for the Benefit of Creditors (or "ABC"), filed in Georgia Superior Court. Movants do not represent Alieria in conjunction with the

Assignment. Instead, Movants are significant creditors of Alieria, and their interests are adverse to Alieria.

3. The amounts owed to Burr as of November 15, 2021 are greater than the amount listed in the Assignment. More specifically, Alieria owes Movant Elizabeth B. Shirley, Sarah R. Craig, and Burr & Forman the collective amount of approximately \$1,911,420.94. (*See* Exhibit 1, Declaration of Elizabeth B. Shirley, ¶¶ 6-7, attached hereto.) Similarly, as of September 30, 2021, Alieria owes Movant Stefan T. Wall and the law firm of Wall, McLean & Gallagher, PLLC approximately \$29,143.66 for legal representation concerning this action. (Exhibit 2, attached hereto, at ¶ 7.)

4. While this Court's Order dated October 26, 2021 stated that Movants' previously filed Motion to Withdraw was denied, in part, because no substitute counsel had been identified and/or appeared, there will be no substitute counsel. (Doc. 228.) Assignee does not intend to obtain substitute counsel, and the Assignee is the only entity with authority to do so. (*See* the executed Amended Consent to Withdrawal of the Assignee, attached hereto as Exhibit 3, at ¶¶ 1-3.) All of Alieria's legal interests and authority have been transferred to the Assignee, and Alieria cannot obtain any substitute legal counsel, even if it desired to do so. Only the Assignee can. And the Assignee does not intend to do so. Thus, Movants effectively do not have a client, as there is no agent of Alieria from whom to receive authority and

instructions or with whom to consult in order to meet Movants' obligations and ethical duties.

5. Montana L.R. 83.3(b) provides, in part:

A motion for leave to withdraw must state the client's last known mailing address and must be accompanied by *either: (A) the client's written consent to counsel's withdrawal, signed by the attorney and the client and acknowledging the client's obligation immediately to retain new counsel or appear pro se; or* (B) an affidavit of counsel showing that: (i) a notice of intent to file a motion to withdraw was personally served on the client at least 14 days prior to filing the motion to withdraw; D. Mont. L.R. March 1, 2016 Page 75 (ii) the client has been advised of its obligation immediately to retain new counsel or appear pro se if the motion to withdraw is granted; and (iii) facts constituting good cause support withdrawal.

L.R. 83.3(b) (emphasis added).

6. Movants meet Local Rule 83.3(b)(A). Movants submit as Exhibit 3 the Amended Certificate of Consent to Withdrawal of Burr & Forman, LLP and Wall, McLean & Gallagher, PLLC, executed by the Assignee – the only authority able to legally enter into agreements on behalf of Alieria. This Amended Consent is on behalf of Alieria and Shelley Steele and Chase Moses, in their capacities as former officers of Alieria. (Ex. 3.) The Amended Consent is executed by the Assignee, as well as Elizabeth B. Shirley, Sarah R. Craig, and the law firm Burr & Forman LLP, and Stefan T. Wall and the law firm of Wall, McLean & Gallagher, PLLC.

7. The Amended Consent states that “[n]either replacement attorneys for Counsel [Movants], nor substitute counsel for Alieria in this action will be retained.”

(Ex. 3, ¶ 3.)

8. The Amended Consent includes an acknowledgment “neither Alieria nor the Assignee may proceed pro se in this action, as they are business entities.” (Ex. 3, ¶ 3.) The Amended Consent also includes an acknowledgment that “Alieria and the Assignee have been advised and acknowledge that, should they fail to retain substitute counsel, default may be entered against them.” (*Id.*)

9. Further, the Amended Consent includes an acknowledgement that Movants are “significant creditors and have a right to file adverse claims against Alieria.” (Ex. 3, ¶ 4.) As set out in Exhibits 1 and 2, Alieria failed to pay Movants for legal services rendered such that Alieria owes Movants a substantial amount of money. Due to Alieria going out of business and filing the ABC, Movants have a right to file a Notice of Claim in the ABC wind-down process, which places Movants in the untenable position of their interests being adverse to those of Alieria.

10. Alieria not only breached agreements with Movants by not paying them for legal services rendered, but also Alieria ceased effective communications with Movants. Alieria has virtually no remaining employees, and Alieria’s email systems are disabled. (Ex. 1, ¶ 8.) Email was the primary method of communication between Movants and Alieria. (*Id.*) This breakdown in communications prevents Movants from being able to effectively represent Alieria’s interests in this action – assuming, *arguendo*, that there were any employees of Alieria with authority to give instructions to Movants on behalf of Alieria for the defense of this action (there are not), that

Movants were being paid for their services (they are not), and that Movants were not adverse to Alera (they are).

11. Additionally, in compliance with this Court's Order dated October 26, 2021, (Doc. 228), Movants submit herewith as Exhibit 4 the signed Consent of Shelley Steele to Movants' withdrawal as counsel in this action, executed in any capacity in which Movants may have been deemed to have appeared on behalf of her. (Ex. 4.) Steele acknowledges that she "has been advised of and specifically acknowledges her obligation immediately to retain new counsel." (Ex. 4, ¶ C.) Steele's Consent is executed by Steele, as well as Elizabeth B. Shirley, Sarah R. Craig, and the law firm Burr & Forman LLP, and Stefan T. Wall and the law firm of Wall, McLean & Gallagher, PLLC. (Ex. 4.)

12. Also in compliance with this Court's Order dated entered October 18, 2021, (Doc. 228), Movants submit herewith as Exhibit 5 the signed Consent of Chase Moses to Movants' withdrawal as counsel in this action, executed in any capacity in which Movants may have been deemed to have appeared on behalf of Chase Moses. (Ex. 5.) Moses acknowledges that he "has been advised of and specifically acknowledges his obligation immediately to retain new counsel." (Ex. 5, ¶ C.) Moses' Consent is executed by Moses, as well as Elizabeth B. Shirley, Sarah R. Craig, and the law firm Burr & Forman LLP, and Stefan T. Wall and the law firm of Wall, McLean & Gallagher, PLLC. (Ex. 5.)

13. Movants consulted with Plaintiffs' counsel concerning Movants' withdrawal. Plaintiffs' counsel represented that Plaintiffs do not oppose the withdrawal of Elizabeth B. Shirley, Sarah R. Craig, and the law firm Burr & Forman LLP, and do not oppose the withdrawal of Stefan T. Wall and the law firm of Wall, McLean & Gallagher, PLLC.

14. Alier's last known business address is:

The Alier Companies Inc.
P.O. Box 28220
Atlanta, GA 30358

The Assignee's last known business address is:

Asset Recovery Associates Alier, LLC
Attn: Katie S. Goodman
Manager
3155 Roswell Road NE Suite 120
Atlanta, GA 30305

WHEREFORE, Movants respectfully request that they be allowed to withdraw from representation of Defendants Alier, Shelley Steele, and Chase Moses, in any and all capacities in which Movants may have represented them in this action.

Respectfully submitted this the 16th day of November, 2021.

/s/ Elizabeth B. Shirley
Elizabeth B. Shirley (admitted *pro hac vice*)
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420 North 20th Street, Ste. 3400
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Facsimile: (205) 458-5100

bshirley@burr.com

Pro hac vice

/s/ Stefan T. Wall

Stefan T. Wall

WALL, MCLEAN & GALLAGHER, PLLC

P.O. Box 1713

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(406) 442-1054

stefan@mlfpllc.com

/s/ Sarah R. Craig

Sarah R. Craig

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Telephone: (813)367-5766

Facsimile: (813)221-7335

scraig@burr.com

Pro hac vice

Attorneys for Defendant

The Alera Companies Inc. and Shelley

Steele and Chase Moses, in their capacity as

current or former officers of Alera

OF COUNSEL

CERTIFICATE OF SERVICE L.R. 5.2(b)

I hereby certify that, on November 16, 2021, a copy of the foregoing document was served upon the following persons by the following means:

1,2,3,4, 5 CM/ECF

6, 7 United States First-Class Mail, postage prepaid

1. Clerk, U.S. District Court
2. John M. Morrison
Morrison, Sherwood, Wilson & Deola, PLLP
401 North Last Chance Gulch; P.O. Box 557
Helena, MT 59624
3. Nathan A. Schacht
Baker & Hostetler – Denver
1801 California Street
Suite 440
Denver, CO 80202
4. Jacqueline T. Menk
Jeffrey Baxter
Baker & Hostetler - Georgia
1170 Peachtree Street, Suite 2400
Atlanta, GA 30309
5. Nathan Bilyeu
Sean Slinger
Jackson Murdo & Grant, P.C.
203 North Ewing
Helena, MT 59601
6. The Alera Companies Inc.
P.O. Box 28220
Atlanta, GA 30358

7. Asset Recovery Associates Alieria, LLC
Attn: Katie S. Goodman
Manager
3155 Roswell Road NE Suite 120
Atlanta, GA 30305

/s/ Elizabeth B. Shirley (pro hac vice)

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION**

**MARIA MOELLER and
RON MOELLER,**

Plaintiffs,

vs.

**THE ALIERA COMPANIES, INC.;
TRINITY HEALTHSHARE;
TIMOTHY MOSES; SHELLEY
STEELE, CHASE MOSES and
DOES 1-10,**

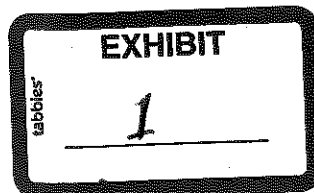
Defendants.

**CIVIL ACTION NO:
6:20-cv-00022-SEH**

**DECLARATION OF
ELIZABETH B. SHIRLEY**

I, Elizabeth B. Shirley, declare as follows:

1. I am over the age of twenty-one years, and I am competent to testify regarding the matters contained herein. I make this Declaration based on my personal knowledge.
2. I am a partner with the law firm of Burr & Forman LLP (the "Firm"), and my office is located in Birmingham, Alabama.
3. I was admitted *pro hac vice* in the above-styled matter to represent Defendant The Alieria Companies Inc., f/k/a Alieria Healthcare, Inc. ("Alieria").
4. The Firm also represented Alieria in various legal matters. Alieria is based in Atlanta, Georgia, where the Firm also has an office location.



5. The Firm keeps true and accurate records of amounts due from clients for legal services performed and related expenses, including amounts due from Alera.

6. Alera is significantly delinquent in its payment of amounts due to the Firm, and the Firm is a creditor of Alera.

7. As of November 15, 2021, Alera owes the Firm approximately \$1,911,420.94 for the Firm's legal services in various matters.

8. I have been informed that Alera has virtually no remaining employees and that Alera's email systems are disabled. Email was the primary method of communication between attorneys at Burr & Forman and Alera.

I declare pursuant to 28 U.S.C. § 1746, under penalty of perjury, that the foregoing is true and correct and based upon my personal knowledge.

Executed this 15th day of November, 2021.

/s/ Elizabeth B. Shirley

Elizabeth B. Shirley

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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION**

* * * * *

**MARIA MOELLER AND RON
MOELLER,**

Plaintiffs,

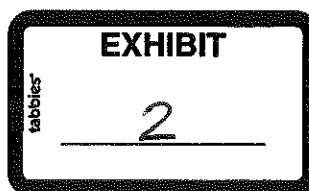
vs.

THE ALIERA COMPANIES, INC.;
TRINITY HEALTHSHARE;
**TIMOTHY MOSES, SHELLEY
STEELE, CHASE MOSES, and DOES
1-10,**

Defendants.

CAUSE NO. CV-00020-22-H-SEH

**DECLARATION
OF
STEFAN T. WALL**



I, Stefan T. Wall, declare as follows:

1. I am of legal age and am competent to testify regarding the matters contained herein. I make this Declaration based on my personal knowledge.

2. I am the managing partner with the law firm of Wall, McLean & Gallagher, PLLC (the "Firm"), and my office is located in Helena, Montana.

3. I was admitted to this matter to represent Defendant, The Alieria Companies Inc., f/k/a Alieria Healthcare, Inc. ("Alieria") along with Sarah R. Craig and Elizabeth B. Shirley (both admitted *pro hac vice*) of the law firm of Burr & Forman LLP.

4. Alieria is based in Atlanta, Georgia, where Burr & Forman LLP also has an office location.

5. The Firm keeps true and accurate records of amounts due from clients for legal services performed and related expenses, including amounts due from Alieria.

6. Alieria is significantly delinquent in its payment of amounts due to the Firm, and the Firm is a creditor of Alieria.

7. As of September 30, 2021, Alieria owes the Firm approximately \$29,143.66 for legal representation concerning this action.

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I declare pursuant to 28 U.S.C. § 1746, under penalty of perjury, that the foregoing is true and correct and based upon my personal knowledge.

Dated this 3rd day of November 2021.

WALL, McLEAN & GALLAGHER, PLLC

By /s/ Stefan T. Wall
Stefan T. Wall
P.O. Box 1713
Helena, MT 59624

ATTORNEYS FOR THE ALIERA COMPANIES, INC.

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ATTORNEYS FOR THE ALIERA COMPANIES INC.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION**

**MARIA MOELLER and
RON MOELLER,**

Plaintiffs

vs.

**THE ALIERA COMPANIES INC.;
TRINITY HEALTHSHARE;
TIMOTHY MOSES; SHELLEY
STEELE, CHASE MOSES and
DOES 1-10,**

Defendants.

**CIVIL ACTION NO:
6:20-cv-00022-SEH**

**AMENDED CERTIFICATE OF
CONSENT TO WITHDRAWAL OF
BURR & FORMAN LLP AND
WALL, MCLEAN &
GALLAGHER, PLLC**

EXHIBIT

3

**AMENDED CERTIFICATE OF CONSENT TO WITHDRAWAL OF
BURR & FORMAN LLP AND WALL, MCLEAN & GALLAGHER, PLLC**

Elizabeth B. Shirley, Sarah R. Craig, and the law firm Burr & Forman LLP, and Stefan T. Wall and the law firm of Wall, McLean & Gallagher, PLLC (collectively, “Counsel”), appeared in the above-styled action as attorneys of record for Defendant The Alieria Companies Inc., formerly known as Alieria Healthcare, Inc., and Shelley Steele and Chase Moses, in their capacity as former officers of Alieria (collectively “Alieria”). Alieria and Counsel hereby agree and consent to the withdrawal of Counsel from representation of Alieria in the above-styled action. In further support, Counsel and Alieria state:

1. As set out in the Deed of Assignment of Alieria, Asset Recovery Associates Alieria, LLC (the “Assignee”) is the only entity authorized to act on behalf of Alieria. Alieria has no business operations and no employees, and it is liquidating pursuant to the Deed of Assignment.

2. Representation of Alieria by Counsel was terminated when Alieria assigned all of its assets and interests to the Assignee. The Assignee, the only party authorized to act on behalf of Alieria, has not retained Counsel to represent Alieria in this action. As a result, Counsel is no longer authorized to take any actions or engage in any representation of Alieria in this action, except for Counsel’s withdrawal of representation.


3. Neither replacement attorneys for Counsel, nor substitute counsel for Alera in this action will be retained. The Assignee has been advised and acknowledges that neither Alera nor the Assignee may proceed *pro se* in this action, as they are business entities. Alera and the Assignee have been advised and acknowledge that, should they fail to retain substitute counsel, default may be entered against Alera and/or the Assignee.

4. Additionally, Counsel are significant creditors and have a right to file adverse claims against Alera. The law firm of Burr & Forman LLP is owed over \$1.5 million. The law firm of Wall, McLean & Gallagher, PLLC is owed over \$22,000.

This 5th day of November, 2021.

**AGREED TO AND EXECUTED BY:
THE ALIERA COMPANIES INC.
By: ASSET RECOVERY ASSOCIATES ALIERA, LLC**

as Assignee for The Alera Companies Inc.

By: 

Katie S. Goodman
Manager and authorized agent to execute this Certificate of Consent

BURR & FORMAN LLP

/s/ Elizabeth B. Shirley

Elizabeth B. Shirley (pro hac vice)
Partner of Burr & Forman LLP
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/s/ Sarah R. Craig

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/s/ Stefan T. Wall

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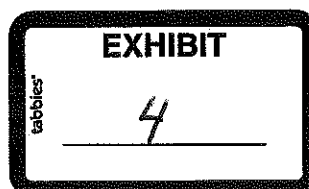
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ATTORNEYS FOR THE ALIERA COMPANIES INC.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION**

<p>MARIA MOELLER and RON MOELLER,</p> <p>Plaintiffs</p> <p>vs.</p> <p>THE ALIERA COMPANIES INC.; TRINITY HEALTHSHARE; TIMOTHY MOSES; SHELLEY STEELE, CHASE MOSES and DOES 1-10,</p> <p>Defendants.</p>	<p>CIVIL ACTION NO: 6:20-cv-00022-SEH</p> <p>CERTIFICATE OF CONSENT TO WITHDRAWAL OF BURR & FORMAN LLP AND WALL, MCLEAN & GALLAGHER, PLLC</p>
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**CERTIFICATE OF CONSENT TO WITHDRAW AS COUNSEL FOR
DEFENDANT SHELLEY STEELE**

Pursuant to Local Rule 83.3, Elizabeth B. Shirley, Sarah R. Craig, and the law firm Burr & Forman LLP, and Stefan T. Wall and the law firm of Wall, McLean & Gallagher, PLLC (collectively, “Counsel”), hereby submit this Certificate of Consent to Withdrawal as Counsel for Defendant Shelley Steele, as an officer of The Alieria Companies Inc., f/k/a Alieria Healthcare, Inc. (“Alieria”) and in any capacity in which Counsel may be deemed to have appeared on behalf of Shelley Steele in this action.

A. Alieria filed an Assignment for the Benefit of Creditors in Fulton County, Georgia on October 11, 2021, pursuant to which Alieria assigned legal and equitable title, as well as custody and control, of all of its assets and property to Asset Recovery Associates Alieria, LLC (the “Assignee”). Alieria is winding down and ceasing operations.

B. Additionally, Shelley Steele is an officer of Alieria. Steele has not retained Counsel to represent her in her individual capacity, but even if she had, this Certificate of Consent to Withdrawal extends her consent for Counsel to withdraw from representation of Steele in any capacity in which Counsel may be deemed to have appeared on her behalf in this action.

C. This Certificate is executed by Shelley Steele, in any and all capacities in which Counsel may be deemed to have appeared in this action to have represented

her, and by Counsel, pursuant to L.R. 83.3(b)(2)(A). Steele has been advised of and specifically acknowledges her obligation immediately to retain new counsel.

This 4th day of November, 2021.

AGREED TO AND EXECUTED BY:

SHELLEY STEELE

By: _____


Shelley Steele

As officer of Alera and in any other capacity in which Counsel may be deemed to have appeared on her behalf in this action

BURR & FORMAN LLP

/s/ Elizabeth B. Shirley

Elizabeth B. Shirley (pro hac vice)
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/s/ Sarah R. Craig

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/s/ Stefan T. Wall

Stefan T. Wall

Wall, McLean & Gallagher, PLLC

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ATTORNEYS FOR THE ALIERA COMPANIES INC.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION**

<p>MARIA MOELLER and RON MOELLER,</p> <p>Plaintiffs</p> <p>vs.</p> <p>THE ALIERA COMPANIES INC.;; TRINITY HEALTHSHARE; TIMOTHY MOSES; SHELLEY STEELE, CHASE MOSES and DOES 1-10,</p> <p>Defendants.</p>	<p>CIVIL ACTION NO: 6:20-cv-00022-SEH</p> <p>CERTIFICATE OF CONSENT TO WITHDRAWAL OF BURR & FORMAN LLP</p>
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**CERTIFICATE OF CONSENT TO WITHDRAW AS COUNSEL FOR
DEFENDANT CHASE MOSES**

Pursuant to Local Rule 83.3, Elizabeth B. Shirley, Sarah R. Craig, and the law firm Burr & Forman LLP, and Stefan T. Wall and the law firm of Wall, McLean & Gallagher, PLLC (collectively, “Counsel”), hereby submit this Certificate of Consent to Withdrawal as Counsel for Defendant Chase Moses, as a former agent and officer of The Alieria Companies Inc., f/k/a Alieria Healthcare, Inc. (“Alieria”) and in any capacity in which Counsel may be deemed to have appeared on behalf of Chase Moses in this action.

A. Alieria filed an Assignment for the Benefit of Creditors in Fulton County, Georgia on October 11, 2021, pursuant to which Alieria assigned legal and equitable title, as well as custody and control, of all of its assets and property to Asset Recovery Associates Alieria, LLC (the “Assignee”). Alieria is winding down and ceasing operations.

B. Additionally, Moses is a former agent and officer of Alieria. Moses has not retained Counsel to represent him in his individual capacity, but even if he had, this Certificate of Consent to Withdrawal extends his consent for Counsel to withdraw from representation of Moses in any capacity in which Counsel may be deemed to have appeared on his behalf in this action.

C. This Certificate is executed by Chase Moses, in any and all capacities in which Counsel may be deemed to have appeared in this action to have represented

him, and by Counsel, pursuant to L.R. 83.3(b)(2)(A). Moses has been advised of and specifically acknowledges his obligation immediately to retain new counsel.

This 26th day of October, 2021.

AGREED TO AND EXECUTED BY:

CHASE MOSES

By: Chase Moses

Chase Moses

As former agent and officer of Alieria and in any other capacity in which Counsel may be deemed to have appeared on his behalf in this action

BURR & FORMAN LLP

/s/ Elizabeth B. Shirley

Elizabeth B. Shirley (pro hac vice)
Partner of Burr & Forman LLP
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Birmingham, Alabama 35203
Telephone: 205-251-3000
bshirley@burr.com

/s/ Sarah R. Craig

Sarah R. Craig (pro hac vice)
Burr and Forman LLP
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Tampa, FL 33602
Phone: 813-209-5043
scraig@burr.com

/s/ Stefan T. Wall

Stefan T. Wall

Wall, McLean & Gallagher, PLLC

P.O. Box 1713

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