

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

CASE NO. 21-35607

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MARIA MOELLER AND RON MOELLER,  
*Plaintiffs-Appellees,*

VS.

THE ALIERA COMPANIES, INC.,  
*Defendant-Appellant,*

AND

TRINITY HEALTHSHARE, INC., ET AL.,  
*Defendants.*

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ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA, HELENA  
NO. 6:20-CV-00022-SEH

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**PLAINTIFF'S MOTION TO DISMISS**

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Come now the Plaintiffs and Appellees, Maria and Ron Moeller, and move this Court to dismiss the above captioned appeal for failure to prosecute.

In its Order of October 20, 2021, this Court granted the renewed motions (Docket Entry Nos. 12 & 13) of Stefan T. Wall and Eddie Travis Ramey to withdraw as counsel for appellant. Dkt. 14. The Order states:

A corporation must be represented by counsel. *See D-Beam Ltd. Partnership v. Roller Derby Skates, Inc.*, 366 F.3d 972 (9th Cir. 2004). Within 28 days after the date of this order, appellant's new counsel shall file a notice of appearance with the court. A new briefing schedule will be established upon compliance with this order.

The Court further cautioned: "Failure to comply with this order will result in the dismissal of this appeal by the Clerk for failure to prosecute. *See* 9th Cir. R. 42-1."

The time specified in the Order expired on November 17, 2021. The cited Circuit Rule provides:

When an appellant fails to file a timely record, pay the docket fee, file a timely brief, or otherwise comply with rules requiring processing the appeal for hearing, an order may be entered by the clerk dismissing the appeal. In all instances of failure to prosecute an appeal to hearing as required, the Court may take such other action as it deems appropriate, including imposition of disciplinary and monetary sanctions on those responsible for prosecution of the appeal.

9th Cir. R. 42-1.

Accordingly, Plaintiffs and Appellees, Maria and Ron Moeller, respectfully move that the appeal be dismissed and for such sanctions as the Court may deem appropriate.

DATED this 6th day of December 2021

MORRISON, SHERWOOD, WILSON & DEOLA, PLLP

By: /s/ John M. Morrison \_\_\_\_\_

John M. Morrison

Anne Sherwood

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*Attorneys for Plaintiffs-Appellees*

**CERTIFICATE OF SERVICE**

I hereby certify that on December 6, 2021, the foregoing document was filed with the Clerk of Court for the United States Court of Appeals for the Ninth Circuit via the appellate CM/ECF filing system.

DATED this 6th day of December 2021

MORRISON, SHERWOOD, WILSON & DEOLA, PLLP

By: /s/ John M. Morrison \_\_\_\_\_

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