

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

CASE NO. 15-CV-02203-RM-KLM

SALVADOR MAGLUTA,	:
	:
Plaintiff,	:
	:
v.	:
	:
FEDERAL BUREAU OF PRISONS,	:
<i>et. al.</i> ,	:
	:
Defendants.	:
.....	:

**UNOPPOSED MOTION TO WITHDRAW AS COUNSEL**

Undersigned counsel, Paul D. Petruzzi, pursuant to D.C.Colo.L.AttyR 5(b) and Rules 1.14(a)(2), 1.14(b), 1.16(b)(5), 1.16(b)(6), and 1.16(b)(7), of the Colorado Rules of Professional Conduct, respectfully requests that this Honorable Court permit him to withdraw as counsel of record for the Plaintiff in this matter. In support, undersigned states as follows:

1. Counsel seeks to withdraw from representing Mr. Magluta in this matter for several reasons; all grounded in the Colorado Rules of Professional Conduct.

2. First, undersigned’s professional considerations and obligations to his other clients require him to terminate his representation of Mr. Magluta. See Colo.R.P.C. 1.16(b)(5), 1.16(b)(6), and 1.16(b)(7). Because both this matter and Mr. Magluta are in Colorado and undersigned’s office is in Florida, undersigned simply cannot devote the hours of representation that Mr. Magluta’s matter consumes without charging him for said representation. Unfortunately, however,

Mr. Magluta and his family have failed to comply with undersigned's requests for payment. Thus, undersigned seeks to withdraw pursuant to Rules 1.16(b)(5) and 1.16(b)(6) of the Colorado Rules of Professional Conduct.

3. Additionally, Rule 1.4 of the Colorado Rules of Professional Conduct requires undersigned to keep Mr. Magluta informed about the status of the matter and reasonably consult with him about the means by which Mr. Magluta's objectives are to be accomplished, among other things. See Colo.R.P.C. 1.4. Indeed, and as the rule makes clear, reasonable communication between counsel and the client is absolutely necessary for the client to effectively participate in the representation. *Id.* Unfortunately, undersigned must withdraw because it has become nearly impossible for him to accomplish Mr. Magluta's objectives due to the difficulty communicating with Mr. Magluta. Mr. Magluta repeatedly cancels scheduled legal calls with undersigned. Moreover, the only communication that undersigned received from Mr. Magluta did not address the direction that Mr. Magluta wishes to proceed.<sup>1</sup>

4. At present, the only pending deadline concerns the filing of objections, if any, to the Report and Recommendation (DE 112). Undersigned sent Mr. Magluta the Report and Recommendation and advised him that objections are due by August 21, 2017. Accordingly, undersigned's withdrawal at this point will not affect Mr. Magluta's ability to pursue this case and Mr. Magluta will have

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<sup>1</sup> Mr. Magluta filed a sworn declaration in support of the response in opposition to the Defendants' Motion for Partial Summary Judgment. Although the same declaration was not sent directly to undersigned, it is the last form of communication undersigned has had with Mr. Magluta.

ample time to secure additional counsel if he wishes to do so. Indeed, Mr. Magluta originally filed this matter, *pro se*, before retaining undersigned.

5. Furthermore, undersigned has taken reasonable steps to avoid any foreseeable prejudice to Mr. Magluta. Contemporaneously with this filing, counsel will send a copy of this motion and an explanatory letter to Mr. Magluta. This letter will inform Mr. Magluta of the information mandated by D.C.Colo.L.AttyR 5(b). Moreover, undersigned will advise Mr. Magluta that, upon the granting of this motion, he will be responsible for complying with all court orders and time limitations established by applicable statutes and rules.

6. Undersigned counsel conferred with Assistant United States Attorney Mark Pestal who advised that he does not oppose the instant relief.

**WHEREFORE**, Undersigned counsel, Paul D. Petruzzi, respectfully requests that this Honorable Court permit him to withdraw as counsel for the Plaintiff in this matter.

Respectfully submitted,

**PAUL D. PETRUZZI, ESQ.**  
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By: s/ Paul Petruzzi  
**PAUL D. PETRUZZI, ESQ.**  
Florida Bar No. 982059

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing motion was filed and served upon all counsel of record via CM/ECF and Salvador Magluta, Inmate No. 26012-037, USP Florence Admax, P.O. Box 8500, Florence, CO, 81226, this 17<sup>th</sup> day of August, 2017.

By: s/ Paul Petruzzi  
**PAUL D. PETRUZZI, ESQ.**  
Florida Bar No. 982059