

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

MICHAEL E. KELLY, *et al.*,

Plaintiffs,

v.

THE UNITED STATES,

Defendant.

No. 21-1949C
(Judge Kathryn C. Davis)

MOTION TO WITHDRAW AS COUNSEL OF RECORD

By this motion, the two law firms currently representing Plaintiffs ask to withdraw as counsel of record but further ask the Court to defer a ruling until January 20, 2023, or until a motion to substitute new counsel for Plaintiffs is filed.

On August 5, 2022, by text order, the Court modified the briefing schedule to accommodate Plaintiffs' intent to substitute new counsel before litigation begins. *See* RCFC 83.1(c)(4)(A). On October 25, 2022, the Court granted Plaintiffs' request to modify the briefing schedule a second time. ECF Doc. No. 14. Under that schedule, the Government's motion to dismiss is due this Friday, December 16, 2022, and Plaintiffs' opposition is due by February 3, 2023. *Id.*

Plaintiffs anticipated that new counsel would be substituted by December 1, 2022, but the process has taken longer than expected. Plaintiffs would not oppose a *sua sponte* extension of the briefing deadlines but, mindful that this action has been pending since October 1, 2021, leave a further extension of the schedule to the Court's discretion.¹

¹ This motion to withdraw is authorized by contractual agreement with the client and is filed, out of caution, before briefing begins on the Government's motion to dismiss. The client received notice. *See* RCFC 83.1(c)(5); *Lumsden ex rel. Peters v. Sec. of Dept. of Health & Human Servs.*,

Accordingly, Plaintiffs respectfully ask the Court grant this motion to withdraw if a motion to substitute new counsel is not filed by January 20, 2023, or by any subsequent date the Court deems appropriate.²

Respectfully submitted,

HAGENS BERMAN SOBOL SHAPIRO LLP

By: /s/ Steve W. Berman

Steve W. Berman

1301 Second Avenue, Suite 2000

Seattle, WA 98101

(206) 623-7292 (telephone)

(206) 623-0594 (facsimile)

steve@hbsslaw.com

Counsel for Plaintiffs

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2012 WL 1357504, at *1 n.3 (Fed. Cl. Mar. 29, 2012) (RCFC “require only notice to the client of the intent to withdraw; it does not require the client’s consent”).

² To protect client interests, motions to withdraw are often “relatively succinct.” *Morrow v. Sec. of Health & Human Servs.*, 2012 WL 3744790, at *1 (Fed. Cl. July 31, 2012) (granting withdrawal). If necessary in support, Plaintiffs’ current counsel, preferably *in camera*, can provide further details.