

1 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

2
3 BRIAN YU,

4 Appellant,

5 vs.

6 ROURONG YU,

7 Respondent.

No.: 70348

Electronically Filed
Jul 07 2017 03:46 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

**MOTION TO WITHDRAW AS
COUNSEL FOR APPELLANT**

8 COMES NOW F. Peter James, Esq. ("Counsel") who hereby moves this
9 Honorable Court to withdraw as counsel for Appellant, Brian Yu.

10 Dated this 7th day of July, 2017

11 */s/ F. Peter James*

12 LAW OFFICES OF F. PETER JAMES

F. Peter James, Esq.

13 Nevada Bar No. 10091

3821 W. Charleston Blvd., Suite 250

14 Las Vegas, Nevada 89102

702-256-0087

15 Counsel for Appellant

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1 **DECLARATION OF F. PETER JAMES, ESQ.**

2 F. Peter James, Esq. declares and states as follows:

- 3 1. I am a member in good standing of the State Bar of Nevada.
- 4 2. I have personal knowledge of the facts contained herein, save those
- 5 stated upon information and belief, and as to those matters, I believe
- 6 them to be true.
- 7 3. I am competent and willing to testify in a court of law as to the facts
- 8 contained herein.
- 9 4. I am requesting that the Court withdraw me as counsel of record for
- 10 Appellant, Brian Yu.
- 11 5. The basis for the request for withdraw is that the Appellant has a
- 12 fundamental disagreement with me as to how to proceed with and
- 13 manage this case. Furthermore, the Appellant has terminated my
- 14 services.
- 15 6. Appellant's last known address is 7809 Snowden Lane, Unit 202; Las
- 16 Vegas, Nevada 89128 and his telephone number is 702-416-3684.

17 I declare under penalty of perjury that the foregoing is true and correct.

18 /s/ *F. Peter James*

July 7, 2017

19 _____
F. PETER JAMES, ESQ.

DATE

POINTS AND AUTHORITIES

For an attorney to withdraw as counsel for a party in an appeal, the attorney must generally file a motion requesting permission to withdraw as counsel. *See* NRAP 46(e). Motions to withdraw as counsel shall state the reasons for the same consistent with SCR 46 and NRPC 1.16. *See* NRAP 46(e)(3).

SCR 46 provides:

The attorney in an action or special proceeding may be changed at any time before judgment or final determination as follows:

1. Upon consent of the attorney, approved by the client.
2. Upon the order of the court or judge thereof on the application of the attorney or the client.

After judgment or final determination, an attorney may withdraw as attorney of record at any time upon the attorney's filing a withdrawal, with or without the client's consent.

NRPC 1.16 provides as follows:

(a) Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if:

- (1) The representation will result in violation of the Rules of Professional Conduct or other law;
- (2) The lawyer's physical or mental condition materially impairs the lawyer's ability to represent the client; or
- (3) The lawyer is discharged.

1 (b) Except as stated in paragraph (c), a lawyer may withdraw from
2 representing a client if:

3 (1) Withdrawal can be accomplished without material adverse
4 effect on the interests of the client;

5 (2) The client persists in a course of action involving the lawyer's
6 services that the lawyer reasonably believes is criminal or
7 fraudulent;

8 (3) The client has used the lawyer's services to perpetrate a crime
9 or fraud;

10 (4) A client insists upon taking action that the lawyer considers
11 repugnant or with which the lawyer has fundamental
12 disagreement;

13 (5) The client fails substantially to fulfill an obligation to the
14 lawyer regarding the lawyer's services and has been given
15 reasonable warning that the lawyer will withdraw unless the
16 obligation is fulfilled;

17 (6) The representation will result in an unreasonable financial
18 burden on the lawyer or has been rendered unreasonably
19 difficult by the client; or

20 (7) Other good cause for withdrawal exists.

(c) A lawyer must comply with applicable law requiring notice to or
permission of a tribunal when terminating representation. When
ordered to do so by a tribunal, a lawyer shall continue representation
notwithstanding good cause for terminating the representation.

(d) Upon termination of representation, a lawyer shall take steps to the
extent reasonably practicable to protect a client's interests, such as
giving reasonable notice to the client, allowing time for employment
of other counsel, surrendering papers and property to which the
client is entitled and refunding any advance payment of fee or

1 expense that has not been earned or incurred. The lawyer may retain
2 papers relating to the client to the extent permitted by other law.

3 Here, Counsel is unable to proceed in representing Appellant as counsel
4 and Appellant have a fundamental disagreement as to how to proceed with and
5 manage this case. Furthermore, Appellant has terminated my services. Counsel
6 is currently representing Appellant in the district court action; however, Counsel
7 has also petitioned the district court to withdraw as counsel for Appellant
8 (Defendant in the district court action).

9 As such, Counsel is requesting to withdraw as counsel for Appellant.

10 CONCLUSION

11 Based on the foregoing, the Court should permit Counsel to withdraw as
12 counsel for Appellant.

13 Dated this 7th day of July, 2017

14 /s/ F. Peter James

15 LAW OFFICES OF F. PETER JAMES

F. Peter James, Esq.

16 Nevada Bar No. 10091

3821 W. Charleston Blvd., Suite 250

17 Las Vegas, Nevada 89102

702-256-0087

18 Counsel for Appellant

1 **CERTIFICATE OF SERVICE**

2 I certify that on this 7th day of July, 2017, I caused the above and foregoing
3 document entitled **MOTION TO WITHDRAW AS COUNSEL FOR**
4 **APPELLANT** to be served by placing same to be deposited for mailing in the
5 United States Mail, in a sealed envelope upon which first class postage was
6 prepaid in Las Vegas, Nevada to the following:

7 Ruorong Yu
8 6721 Old Valley Street
9 Las Vegas, Nevada 89149
10 702-505-2882
11 happyruorong@gmail.com
12 Respondent in proper person

Brian Yu
7809 Snowden Lane, Unit 202
Las Vegas, Nevada 89128
Appellant

13 By: /s/ F. Peter James

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An employee of the Law Offices of F. Peter James, Esq., PLLC
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