

IN THE SUPREME COURT OF THE STATE OF NEVADA

NUVEDA, LLC, a Nevada limited
liability company,

Appellant,

vs.

JENNIFER M. GOLDSTEIN, a Nevada
resident,

Respondent.

Supreme Court Case No. 79806

District Court Case No. A728510

Electronically Filed
Feb 18 2020 04:44 p.m.

Elizabeth A. Brown
Clerk of Supreme Court

**MOTION TO WITHDRAW AS
COUNSEL OF RECORD FOR
NUVEDA, LLC**

Matthew T. Dushoff, Esq. of the law firm of KOLESAR & LEATHAM (“K&L”), pursuant to Supreme Court Rule 46, Nevada Rule of Professional Conduct 1.16(b)(5)(6)(7), hereby moves this Honorable Court for its Order permitting K&L to immediately withdraw from its representation of Appellant, NUVEDA, LLC (“NuVeda”), a Nevada limited liability company in this matter (the “Motion”).

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This Motion is made and based upon SCR 46, EDCR 7.40, the attached Points and Authorities, the Declaration of Matthew T. Dushoff, Esq., the pleadings and papers on file herein, and any additional evidence the Court may consider at the hearing of this matter.

DATED this 18th day of February, 2020.

KOLESAR & LEATHAM

/s/ Matthew T. Dushoff, Esq.

MATTHEW T. DUSHOFF, ESQ.

Nevada Bar No. 004975

SCOTT D. FLEMING, ESQ.

Nevada Bar No. 005638

400 S. Rampart Blvd., Ste. 400

Las Vegas, Nevada 89145

Telephone: (702) 362-7800

Facsimile: (702) 362-9472

Attorneys for Appellant,
NUVEDA, LLC

DECLARATION OF MATTHEW T. DUSHOFF, ESQ.

STATE OF NEVADA)

: ss

COUNTY OF CLARK)

MATTHEW T. DUSHOFF, ESQ., being first duly sworn deposes and says:

1. I am now, and at all times material herein mentioned was, over the age of 18 years, a resident of Clark County, Nevada, a citizen of the United States of America, and competent to testify and be a witness as to facts stated herein.

2. I have personal knowledge of the matters asserted herein except for those matters stated upon information and belief, which I believe to be true.

3. I am an attorney at law licensed to practice in the State of Nevada.

4. On or about January 15, 2019, Appellant retained K&L to represent it with co-counsel, Jason Wiley, Esq., in the instant matter and agreed to pay K&L for its services to be billed to Appellant on an hourly basis.

5. Since that time, other K&L attorneys have prepared pleadings, tried the case before the arbitrator and aided in the appeal before the district court.

6. Jason Wiley, Esq., with the law firm of Wiley Peterson, is also representing NuVeda on the appeal before this Court.

7. I have also spoke with Dr. Pejman Bady, the Managing Member of NuVeda, who informed me that NuVeda has hired additional counsel to aid in the appeal and other matters involving NuVeda.

8. I informed Dr. Bady that there is no need to pay three (3) separate law firms for this appeal and that I will be filing a withdrawal from this case.

9. Dr. Bady does not oppose Kolesar & Leatham's withdrawal from the appeal. Attached as **Exhibit A** is a copy of Dr. Bady's Declaration.

10. The Appellant's current mailing address for this matter should be directed to their attorney:

Wiley Peterson
Attn: Jason Wiley, Esq.

1050 Indigo Drive, #130
Las Vegas, NV 89145

11. A copy of the instant motion will be mailed to NuVeda's attorney simultaneously with the filing of this motion with the Court.

Further this declarant sayeth naught.

/s/ Matthew T. Dushoff, Esq.
MATTHEW T. DUSHOFF, ESQ.

POINTS AND AUTHORITIES

I.

LEGAL ARGUMENT

A. GOOD CAUSE EXISTS FOR THE WITHDRAWAL OF K&L FROM THIS MATTER.

As set forth in the attached Affidavit of Matthew T. Dushoff, Esq., the Appellant retained K&L to represent their interests in the instant matter and agreed to pay K&L for the professional legal services it provided. At the Appellant's request and direction, K&L has provided professional legal services in this matter.

Appellant currently has two other law firms besides K&L representing them on the appeal. There is no need for Appellant to have to pay a third law firm to represent them in this appeal. Further, Dr. Bady has stipulated to the withdrawal.

Exhibit A.

Supreme Court Rule 46 provides, in part:

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

Upon the order of the court of judge thereof on the application of the attorney or the client.

Rule 1.16 of the Nevada Rules of Professional Conduct further allows a lawyer to terminate the representation of a client under any of the following circumstances:

1. Withdrawal can be accomplished without material adverse effect on the interests of the client;
2. The client persists in a course of action involving the lawyer's services that the lawyer reasonably believes is criminal or fraudulent;
3. the client has used the lawyer's services to perpetrate a crime or fraud;
4. A client insists upon taking action that the lawyer considers repugnant or with which the lawyer has fundamental disagreement;
5. The client fails substantially to fulfill an obligation to the lawyer regarding the lawyer's services and has been given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled;
6. the representation will result in an unreasonable financial burden on the lawyer or has been rendered unreasonably difficult by the client; or
7. Other good cause for withdrawal exists.

The Appellant will not be adversely affected as they already have two other law firms representing them on this appeal. Ironically, the Appellant, and not the attorney, may suffer an unreasonable financial burden if K&L remain on this matter. Pursuant to EDCR 7.40, Appellant's current mailing address is included in

the attached affidavit of Matthew T. Dushoff, Esq. and notice of this Motion has been served upon the Appellant's counsel.

II.
CONCLUSION

Based upon the foregoing, K&L respectfully requests that this Court enter its Order permitting K&L to immediately withdraw from its representation of the Appellant in this matter.

DATED this 18th day of February, 2020.

KOLESAR & LEATHAM

/s/ Matthew T. Dushoff, Esq. _____

MATTHEW T. DUSHOFF, ESQ.

Nevada Bar No. 004975

SCOTT D. FLEMING, ESQ.

Nevada Bar No. 005638

400 S. Rampart Blvd., Ste. 400

Las Vegas, Nevada 89145

Telephone: (702) 362-7800

Facsimile: (702) 362-9472

Attorneys for Appellant,
NUVEDA, LLC

CERTIFICATE OF SERVICE

Pursuant to NRAP 25(c)(1)(B), I certify that I am an employee of Kolesar & Leatham and on the 18th day of February, 2020, I submitted the foregoing **MOTION TO WITHDRAW AS COUNSEL OF RECORD FOR NUVEDA, LLC** to the Supreme Court of Nevada's electronic docket for filing and service upon the following:

Jason Wiley, Esq.
Ryan Petersen, Esq.
WILEY PETERSON
1050 Indigo Drive, #130
Las Vegas, Nevada 89145

Attorneys for NuVeda, LLC

Briar R. Irvine, Esq.
Brooks T. Westergard, Esq.
DICKINSON WRIGHT PLLC
100 West Liberty Street, Suite 940
Reno, Nevada 89501

Attorneys for Jennifer M. Goldstein

/s/ Kristina R. Cole
An Employee of KOLESAR & LEATHAM

Motion to Withdraw as Counsel of Record for NuVeda, LLC

EXHIBIT A

DECLARATION OF DR. PEJMAN BADY

STATE OF NEVADA)
 : ss
COUNTY OF CLARK)

DR. PEJMAN BADY, being first duly sworn deposes and says:

1. I am now, and at all times material herein mentioned was, over the age of 18 years, a resident of Clark County, Nevada, a citizen of the United States of America, and competent to testify and be a witness as to facts stated herein.
2. I have personal knowledge of the matters asserted herein except for those matters stated upon information and belief, which I believe to be true.
3. I am a managing member of NuVeda, LLC ("NuVeda"). As such, I have the authority to retain counsel for NuVeda.
4. On or about January 15, 2019, during the administrative hearing, NuVeda retained K&L to represent it with co-counsel, Jason Wiley, Esq., in the instant matter and agreed to pay K&L for its services to be billed to NuVeda on an hourly basis.
5. Since that time, other K&L attorneys have prepared pleadings, tried the case before the arbitrator and aided in the appeal before the district court.
6. Jason Wiley, Esq., with the law firm of Wiley Peterson, is also representing NuVeda on the appeal before this Court.

7. I have also spoke with Matthew T. Dushoff, Esq., and informed him that NuVeda has hired additional counsel to aid in the appeal and other matters involving NuVeda.

8. There is no need to pay three (3) separate law firms for this appeal.

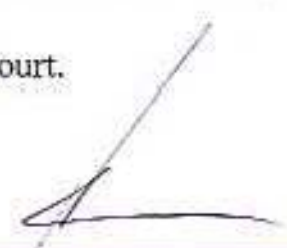
9. I do not oppose Kolesar & Leatham's withdrawal from the appeal.

10. For the purpose of this appeal, NuVeda's current mailing address should be directed to their attorney:

Wiley Peterson
Attn: Jason Wiley, Esq.
1050 Indigo Drive, #130
Las Vegas, NV 89145

11. A copy of the instant motion will be mailed to NuVeda's attorney simultaneously with the filing of this motion with the Court.

Further this declarant sayeth naught.



DR. PEJMAN BADY