

IN THE SUPREME COURT OF THE STATE OF NEVADA

NONA TOBIN, AN INDIVIDUAL,

Appellant,

vs.

BRIAN CHIESI, AN INDIVIDUAL;
DEBORA CHIESI, AN INDIVIDUAL;
QUICKEN LOANS INC.; JOEL A.
STOKES, AN INDIVIDUAL; JOEL A.
STOKES AND SANDRA F. STOKES AS
TRUSTEES OF THE JIMIACK
IRREVOCABLE TRUST; JIMIACK
IRREVOCABLE TRUST; RED ROCK
FINANCIAL SERVICES; AND
NATIONSTAR MORTGAGE, LLC,

Respondents.

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Elizabeth A. Brown
Clerk of Supreme Court
Supreme Court Case No. 82294
District Court Case No. A-19-799890-C

APPEAL

District Court Case No. A-19-799890-C

MOTION TO WITHDRAW AS COUNSEL

ARIEL E. STERN, ESQ.

Nevada Bar No. 8276

MELANIE D. MORGAN, ESQ.

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LILITH V. XARA, ESQ.

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Attorneys for Respondent Nationstar Mortgage, LLC

Akerman LLP moves to withdraw as counsel of record for Nationstar Mortgage LLC in this appeal.

I. The Law.

Nevada Rule of Appellate Procedure 46(e)(3) allows the court, absent stipulation of the parties, to grant a motion to withdraw filed consistent with the Rules of Professional Conduct and SCR 46.

II. Akerman was freely discharged as counsel.

Nationstar Mortgage LLC, knowingly and freely discharged Akerman as counsel. RPC 1.16(a)(3); *see In re Kaufman*, 93 Nev. 456, 568 P.2d 959 (1977) (a party may discharge his or her attorney). Akerman anticipates Nationstar will retain new counsel in short order, however new counsel has not yet made an appearance or requested consent for substitution. Akerman will serve a copy of the motion on Nationstar and all parties of record. RPC 1.16(c). Akerman will also provide a copy of the pleadings and other case documents to Nationstar in accordance with any legal, ethical, and contractual obligations. RPC 1.16(d). Akerman will comply with any court deadlines prior to entry of a withdrawal order or appearance by new counsel, whichever comes first, to protect Nationstar's interests. *Id.* Akerman provides the court and other parties with contact information for Nationstar: Nationstar Mortgage LLC dba Mr. Cooper, 8950 Cypress Waters Blvd., Coppell, TX 75019, (833) 685-2565.

III. Nationstar will Suffer No Prejudice.

Withdrawal can be accomplished without material adverse effect to Nationstar since Nationstar are retaining new counsel.

IV. Good Cause Exists to Grant Withdrawal.

A client generally has the right of counsel of their choosing. *See e.g. Leibowitz v. The Eighth Jud. Dist. Ct. of the State of Nev. ex rel. Cty. of Clark*, 119 Nev. 523, 534, 78 P.3d 515, 522 (2003). Nationstar has exercised this right and freely discharged Akerman as counsel. Good cause exists to allow Akerman's withdrawal as a result of Nationstar's discharge. RPC 1.16(a)(3). This motion is not meant to delay adjudication of the appeal. Akerman does not anticipate any party will object to the withdrawal under the circumstances described herein. Pursuant to NRAP 46(3) a declaration of counsel the grounds for that discharge is attached.

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CONCLUSION

Akerman respectfully requests this court grant its withdraw as counsel for Nationstar.

DATED this 5th of November 2021

AKERMAN LLP

/s/ Lilith V. Xara

ARIEL STERN, ESQ.

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Attorneys for Nationstar Mortgage, LLC

DECLARATION OF LILITH V. XARA, ESQ.

I, Lilith V. Xara, Esq., declare and state, under penalty of perjury, as follows:

1. I am an attorney admitted to practice before all courts in Nevada.
2. I am an associate with the law firm of Akerman LLP in its Las Vegas, Nevada office.
3. I have personal knowledge of the facts and circumstances set forth in this declaration as specified and would competently testify to these facts and circumstances in a court of law.
4. I represent Nationstar in this matter.
5. I make this declaration in support of Akerman's motion to withdraw as counsel and for extension of time to respond to petition for rehearing.
6. Nationstar Mortgage LLC discharged Akerman as counsel.
7. Nationstar informed Akerman that it is retaining new counsel in short order, however new counsel has not made an appearance or requested consent for substitution to date.
8. Good cause exists for withdraw as a result of the discharge and intention to retain new counsel. Good cause also exists since this withdraw will not materially prejudice Nationstar.
9. I will serve a copy of the motion on Nationstar and all parties of record.

10. I will provide a copy of the pleadings and other case documents to Nationstar in accordance with any legal, ethical, and contractual obligations.

11. I will comply with any court deadlines prior to entry of a withdrawal order or appearance by new counsel, whichever comes first, to protect Nationstar's interests.

I declare under penalty of perjury of the laws of the United States of America the foregoing is true and accurate to the best of my ability.

DATED November 5, 2021.

/s/ Lilith V. Xara
LILITH V. XARA, ESQ.

CERTIFICATE OF SERVICE

I certify that I electronically filed on November 5, 2021, the foregoing **MOTION TO WITHDRAW AS COUNSEL** with the Clerk of the Court for the Nevada Supreme Court by using the Court's electronic file and serve system. I further certify that all parties of record to this appeal are either registered with the Court's electronic filing system or have consented to electronic service and that electronic service shall be made upon and in accordance with the Court's Master Service List.

For those Parties not registered in the Court's Master Service List, service was made in the following manner:

(UNITED STATES MAIL) By depositing a copy of the above-referenced document for mailing in the United States Mail, first-class postage prepaid, at Las Vegas, Nevada, to the parties listed below at their last-known mailing addresses, on the date above written as follows:

Nationstar Mortgage LLC
8950 Cypress Waters Blvd.
Coppell, TX 75019

I declare that I am employed in the office of a member of the bar of this Court at whose discretion the service was made.

/s/ Patricia Larsen
An employee of AKERMAN LLP