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6 THE BAEZ LAW FIRM  
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Gabrielle McCabe, Pro Hac Vice  
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10

11 Attorneys for Defendant Yorai Benzeevi

12  
13 SUPERIOR COURT OF CALIFORNIA  
14 COUNTY OF TULARE

15 People of the State of  
16 California,

17 Plaintiff,

18 v.

19 Yorai Benzeevi, Alan Germany, and  
Bruce Greene,

20 Defendants.  
21  
22

Case No. VCF401053 A/B/C

NOTICE OF MOTION AND MOTION TO  
WITHDRAW AS COUNSEL OF RECORD;  
DECLARATION OF JOSE A. BAEZ AND  
GABRIELLE MCCABE; MEMORANDUM OF  
POINTS AND AUTHORITIES

DATE: October 20, 2021  
TIME: 8:30AM  
DEPT: 5

23 TO THE ABOVE-ENTITLED COURT; TO TIM WARD, DISTRICT ATTORNEY FOR  
24 THE COUNTY OF TULARE, AND TO HIS APPOINTED DEPUTY:

25 PLEASE TAKE NOTICE that on October 20, 2021, at the hour of  
26 8:30 a.m., or as soon thereafter as the matter may be heard in  
27 Department 5 of the above-referenced Court, counsel for Defendant,  
28

FILED  
TULARE COUNTY SUPERIOR COURT  
VISALIA DIVISION


OCT 18 2021  
STEPHANIE CAMERON, CLERK  
BY: *[Signature]*

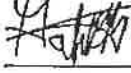
1 Jose A. Baez and Gabrielle McCabe, will seek to withdraw as  
2 attorneys of record in this matter.

3 This motion is on the ground that the client has knowingly and  
4 freely assented to termination of the representation. The motion  
5 will be based on this notice of motion, the attached memorandum of  
6 points and authorities served and filed herewith on such  
7 supplemental memoranda or points and authorities as may be filed  
8 with the court, or stated orally at the conclusion of the hearing,  
9 on all the papers and records on file in this action, and on such  
10 oral and documentary evidence as may be presented at the hearing on  
11 the motion.

12 Dated: October 6, 2021

Respectfully submitted,


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14 \_\_\_\_\_  
15 Jose A. Baez, Esq.  
16 Pro Hac Vice


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19 Gabrielle McCabe, Esq.  
20 Pro Hac Vice  
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We declare under the penalty of perjury that the foregoing is true and correct. Executed this 6th day of October 2021.

  
\_\_\_\_\_  
Jose A. Baez, Esq.  
Pro Hac Vice

  
\_\_\_\_\_  
Gabrielle McCabe, Esq.  
Pro Hac Vice

WANGER JONES HELSLEY PC

Oliver W. Wanger,  
Peter M. Jones, and Christopher A. Lisieski  
Attorneys for Defendant Yorai Benzeevi

1 Counsels for Defendant submits the following points and authorities  
2 in support of the motion for leave to withdraw as attorneys:

3  
4 I.

5 THE CODE OF CIVIL PROCEDURE PROVIDES  
6 FOR THE WITHDRAWAL OF AN ATTORNEY  
7 UPON APPLICATION OF THAT ATTORNEY

8 Code of Civil Procedure §284 states:

9 "The attorney in an action or special proceeding may be  
10 changed at any time before or after judgment or final  
11 determination, as follows:

12 "...2. Upon order of the court, upon the application of  
13 either client or attorney, after notice from one to the  
14 other."

15 This section is applicable to criminal cases as well as civil  
16 litigation. (Re Haro (1969) 71 Cal 2d 1021, 1029, 80 Cal Rptr 588,  
17 458 P2d 500.)

18 There is no authority preventing an attorney from withdrawing  
19 from a case when withdrawal can be accomplished without undue  
20 prejudice to the client's interest. (Ramirez v. Sturdevnat (1994) 26  
21 Cal. App. 4th 904, 915.)

22 The California Rules of Professional Conduct Rule 1.16(b) (6)  
23 states that a lawyer may withdraw from representing a client if the  
24 client knowingly and freely assents to termination of the  
25 representation.

26 Under California law the client has the right to "discharge"  
27 his or her attorney at any time with or without cause. As the  
28

1 California Supreme Court explained in *Fracasse v. Brent* (1972)

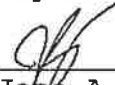
2 6 Cal.3d 784, 790 [100 Cal.Rptr. 385]:

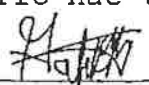
3  
4 It has long been recognized in this state the client's  
5 power to discharge an attorney, with or without cause, is  
6 absolute[.] (Code Civ. Proc., § 284[.]). In discussing the  
7 unique relationship between attorney and client, this court  
8 stated that "The interest of the client in the successful  
9 prosecution or defense of the action is superior to that of  
10 the attorney, and he has the right to employ such attorney  
11 as will in his opinion best subserve his interest. The  
12 relation between them is such that the client is justified  
13 in seeking to dissolve that relation whenever he ceases to  
14 have absolute confidence in either the integrity or the  
15 judgment or the capacity of the attorney... The fact that  
16 the attorney has rendered valuable services under his  
17 employment, or that the client is indebted to him therefor,  
18 or for moneys advanced in the prosecution or defense of the  
19 action, does not deprive the client of this right..."  
20 (Citations omitted.)

21 Based on the foregoing, counsels for Dr. Benzeevi respectfully  
22 requests this Court's permission to withdraw as attorneys of record.

23 Dated: October 6<sup>th</sup>, 2021.

24 Respectfully submitted,

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26 \_\_\_\_\_  
27 Jose A. Baez, Esq.  
28 Pro Hac Vice

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30 \_\_\_\_\_  
31 Gabrielle McCabe, Esq.  
32 Pro Hac Vice

33 WANGER JONES HELSLEY PC

34 Oliver W. Wanger,  
35 Peter M. Jones, and Christopher A. Lisieski  
36 Attorneys for Defendant Yorai Benzeevi

PROOF OF SERVICE

1  
2 My business address is 265 East River Park Circle, Suite 310, Post Office Box  
3 28340, Fresno, California 93729. I am employed in Fresno County, California. I am over the  
4 age of 18 years and am not a party to this case.

5 On the date indicated below, I served the foregoing document(s) described as  
6 **NOTICE OF MOTION AND MOTION TO WITHDRAW AS COUNSEL OF RECORD;**  
7 **DECLARATION OF JOSE A. BAEZ AND GABRIELLE MCCABE; MEMORANDUM**  
8 **OF POINTS AND AUTHORITIES** on all interested parties in this action by placing a true  
9 copy thereof enclosed in sealed envelopes addressed as follows:

10 Tim Ward  
11 TULARE COUNTY DISTRICT  
12 ATTORNEY  
13 Trevor J. Holly, Esq.  
14 Deputy District Attorney  
15 221 S. Mooney Blvd., Room 224  
16 Visalia, CA 93291  
17 Telephone: (559) 636-5494  
18 Fax: (559) 730-2658  
19 Email: [tholly@co.tulare.ca.us](mailto:tholly@co.tulare.ca.us)

20 Kevin Rooney, Esq.  
21 Hammerschmidt Law Corporation  
22 2445 Capitol Street, Suite 150  
23 Fresno, CA 93721  
24 Telephone: (559) 233-5333  
25 Fax: (559) 233-4333  
26 Email: [kevin@hammerlawcorp.com](mailto:kevin@hammerlawcorp.com)

27 David Scheper, Esq.  
28 Jeffrey Steinfeld, Esq.  
WINSTON & STRAWN LLP  
333 S. Grand Avenue  
Los Angeles, CA 90071-1543  
Telephone: (213) 615-1715  
Email: [dscheper@winston.com](mailto:dscheper@winston.com)  
Email: [jlsteinfeld@winston.com](mailto:jlsteinfeld@winston.com)

24   X   (BY MAIL) I am readily familiar with the business' practice for collection  
25 and processing of correspondence for mailing, and that correspondence, with  
26 postage thereon fully prepaid, will be deposited with the United States Postal  
27 Service on the date noted below in the ordinary course of business, at Fresno,  
28 California.

  X   (BY ELECTRONIC MAIL) I caused delivery of such document(s) to be  
delivered to the electronic address(es) of the addressee(s)


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(BY PERSONAL SERVICE) I caused delivery of such envelope(s), by hand, to the office(s) of the addressee(s).

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(BY OVERNIGHT COURIER) I caused the above-referenced envelope(s) to be delivered to an overnight courier service for delivery to the addressee(s).

EXECUTED ON **October 18, 2021**, at Fresno, California.

\_\_\_\_\_  
(FEDERAL) I declare that I am employed in this office of a member of the bar of this court at whose direction this service was made.

  
\_\_\_\_\_  
Deborah Pell