

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

UNITED STATES SECURITIES AND)
EXCHANGE COMMISSION,)

Plaintiff,)

v.)

NO. 1:15-cv-659-JMS-MJD

VEROS PARTNERS, INC.,)

MATTHEW D. HAAB,)

JEFFERY B. RISINGER,)

VEROS FARM LOAN HOLDING LLC)

TOBIN J. SENEFELD,)

FARMGROWCAP LLC, and)

PINCAP LLC,)

Defendants.)

PIN FINANCIAL LLC,)

Relief Defendant.)

**MOTION FOR RECONSIDERATION OF DENIAL OF LEAVE TO WITHDRAW
APPEARANCE**

Attorney Jeanine Kerridge of Barnes & Thornburg, LLP respectfully requests that the Court reconsider its denial of her motion for leave to withdraw her appearance on behalf of Tobin J. Senefeld in light of new circumstances, and in support hereof states as follows:

1. On January 6, 2017, counsel moved to withdraw her appearance on behalf of Mr. Senefeld on grounds which comply with those set forth in Professional Conduct Rule 1.16(b).

2. On January 24, 2017, the Court denied the motion to withdraw on the grounds that 617 days had passed before the motion to withdraw and only 94 days remained before trial.

3. On February 24, 2017, the Court vacated the trial scheduled for April 10, 2017 and reset it for November 13, 2017. Accordingly, over 170 days now remain before trial and Mr. Senefeld has substantial time and opportunity to retain substitute counsel.

4. Although “[t]echnically, a ‘Motion to Reconsider’ does not exist under the Federal Rules of Civil Procedure,” *GHSC Assocs. Ltd. P’ship v. Wal-Mart Stores, Inc.*, (7th Cir. 2002), they are appropriate where the court makes an error of apprehension, where the court makes a ruling beyond the issues presented by the parties, or to address a significant change in the law or facts. *Bank of Waunakee v. Rochester Cheese Sales, Inc.* (7th Cir. 1990).

5. Here, at the time of the Court’s ruling, 94 days remained before trial. When the Court vacated the trial date and reset it to November 13, 2017, the time prior to trial has substantially increased. Accordingly, there has been a significant change in the facts warranting reconsideration.

6. In addition, during the intervening months since the Court denied the undersigned’s initial request to withdraw, Mr. Senefeld’s failures substantially to fulfill his obligations to his lawyer have persisted and compounded. *See* Ind. Prof. Conduct Rule 1.16(b)(5).

7. Fed. R. Civ. P. 72(a) does not preclude this Motion because the Court had not reset the trial date within the fourteen-day period to object to a non-dispositive order by the Magistrate Judge. Accordingly, this Motion is timely due to a substantial change in facts following the issuance of the Order.

8. Indiana Professional Conduct Rule 1.16(b) specifies the following separate circumstances in which withdrawal is permissible:

- (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 a 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.

9. Withdrawal is appropriate because Mr. Senefeld persists in not meeting his obligations to his lawyers and the situation has strained the relationship. Ind. Prof. Cond. R. 1.16(b)(5), (7).

10. The undersigned has communicated both by phone and email concerning the reasons for the request to withdraw and has communicated regarding her intention to renew her motion to withdraw. A copy of this Motion was provided to Mr. Senefeld before it was filed.

11. The undersigned has offered to assist Mr. Senefeld in seeking substitute counsel and will help with a smooth transition to new counsel. The issues in this case are not so complex or numerous that successor counsel would not have adequate time to prepare for trial.

12. Mr. Senefeld's last known address is 6329 Glen Coe Drive, Indianapolis, IN 46260 and last known telephone number was 317-508-4849.

WHEREFORE, Jeanine Kerridge respectfully requests that the Court reconsider its denial of the Motion for Leave to Withdraw Appearance, grant her leave to withdraw her appearance on behalf of Mr. Senefeld, and all other just and proper relief.

Respectfully submitted,

/s/ Jeanine Kerridge

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Attorney for Defendant Tobin J. Senefeld

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 26th day of May, 2017, a copy of the foregoing was filed electronically using the CM/ECF system and is available to all counsel of record using same and was served via United States mail, postage prepaid, on the following:

Tobin J. Senefeld
6329 Glen Coe Drive
Indianapolis, IN 46260

/s/ Jeanine Kerridge