

1 LAURA A. SCHROEDER, NSB #3595
WYATT E. ROLFE, NSB #10735
2 Schroeder Law Offices, P.C.
PO Box 40400 440 Marsh Avenue
3 Reno, NV 89504-4400 Reno, NV 89509
PHONE (775) 786-8800; FAX (877) 600-4971
4 counsel@water-law.com
Attorneys for the Defendants
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7 UNITED STATES DISTRICT COURT
8 DISTRICT OF NEVADA
9

10 UNITED STATES OF AMERICA
11 Plaintiff,
12 THE WALKER RIVER PAIUTE TRIBE,
13 Plaintiff-Intervenor,
14 v.
15 THE WALKER RIVER IRRIGATION
DISTRICT, a corporation, et al.,
16 Defendants.
17

IN EQUITY NO. C-125-B-ECR
3:73-cv-00127-ECR-LRL

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
MOTION TO WITHDRAW AS
COUNSEL**

18 UNITED STATES OF AMERICA,
WALKER RIVER PAIUTE TRIBE,
19 Counterclaimants
20 v.
21 WALKER RIVER IRRIGATION
DISTRICT, et al.,
22 Counterdefendants.
23

24 BACKGROUND

25 LAURA A. SCHROEDER and Schroeder Law Offices, P.C. ("Schroeder"), attorneys for
26 Borsini Ranch, Inc. ("Borsini Ranch"), in the above matter, have moved this Court for an order



1 to withdraw as counsel. This is Schroeder's second motion for withdrawal. Previously, this
2 Court denied Schroeder's request, stating that "before Ms. Schroeder is allowed to withdraw,
3 there must be a substitution of other counsel to represent the corporate Defendant."¹

4 POINTS AND AUTHORITIES

5 **A. Schroeder has Complied with LR IA 10-6.**

6 This motion is made under LR IA 10-6. In support thereof, Laura A. Schroeder relies
7 upon the Affidavit of Laura A. Schroeder in Support of Motion to Withdraw as Counsel
8 ("Schroeder Affidavit") filed herewith. Notice of Schroeder's intent to seek withdrawal was
9 provided to both opposing counsel and Borsini Ranch as required by LR IA 10-6(b). Schroeder
10 Affidavit ¶ 15.

11 **B. 28 U.S.C. § 1654 does not require a substitute attorney as a condition of**
12 **withdrawal.**

13 In the context of a business entity, it is clear that pursuant to 28 U.S.C. § 1654, a
14 company may only appear in federal court through a licensed attorney.² This general rule was
15 the basis of this Court's minute order dated September 16, 2008 denying Schroeder's previous
16 request to withdraw.³ In its order the Court cited, *United States v. High Country Broadcasting*
17 *Co., Inc.*, and *Licht v. America West Airlines*, two cases wherein the Ninth Circuit affirmed court
18 orders disallowing non-attorneys from representing business entities.⁴ In *High Country*, the
19 President (and sole shareholder) of High Country Broadcasting Corporation, Inc. was attempting

20 _____
¹ See Minutes of the Court, September 16, 2008 (Docket #1426).

21 ² *Rowland v. California Men's Colony, Unit II Men's Advisory Council*, 506 U.S. 194,
22 201-203, 113 S.Ct. 716 (1993). ("[L]ower courts have uniformly held that 28 U.S.C. § 1654
23 providing that 'parties may plead and conduct their own case personally or by counsel,' does not
24 allow corporations, partnerships, or associations to appear in federal court otherwise than
25 through a licensed attorney.").

26 ³ 28 U.S.C. § 1654 states: "In all courts of the United States the parties may plead and
conduct their own cases personally or by counsel as, by the rules of such courts, respectively, are
permitted to manage and conduct causes therein."

⁴ See Minute Order dated September 16, 2008 (Docket #1426), citing *United States v.*
High Country Broadcasting Co., Inc., 3 F.3d 1244 (9th Cir. 1993); certiorari denied 115 S.Ct. 93,
513 U.S. 826, 130 L.Ed.2d 44; *Licht v. America West Airlines*, 40 F.3d 1058 (9th Cir. 1994).



1 to represent the company in court. When High Country failed to adhere to an order to retain
2 counsel, the district court entered a default judgment against it. As for *Licht*, the Ninth Circuit
3 upheld a bankruptcy court's order barring Sydney Licht, a non-attorney, from representing a
4 business association in which Licht was the senior partner.

5 While it is clear that business entities may appear only through a licensed attorney, there
6 is no support that 28 U.S.C. § 1654 likewise requires substitution of an attorney as a condition to
7 an attorney withdrawing from representation of a corporate defendant. As seen in *High Country*
8 and *Licht*, the statute places an onus upon the corporate *party* to appear only through a licensed
9 attorney or otherwise be barred from participating and risk default judgment. Neither of these
10 cases supports the proposition that 28 U.S.C. § 1654 burdens the unwilling attorney to
11 nevertheless continue representation until such time as the corporate defendant decides to
12 substitute counsel. Such an interpretation would result in a *de facto* appointment and subject vast
13 numbers of attorneys to potential unwarranted abuse by unscrupulous business owner *parties*.

14 **C. There is good cause to grant Schroeder's motion.**

15 Borsini Ranch refuses to provide substitute counsel and contends that Schroeder does not
16 represent Borsini Ranch. Schroeder Affidavit ¶ 7. Schroeder, in good faith, has advised Borsini
17 Ranch of its need for alternate counsel should it wish to appear in court and participate in the
18 litigation. Schroeder Affidavit ¶ 14. Borsini Ranch continues to purport its position to not
19 substitute alternate counsel. Schroeder Affidavit ¶ 12. Given neither Schroeder nor Borsini
20 Ranch desire to continue the relationship, a compelled attorney-client relationship is not
21 warranted under the circumstances of this case.

22 Schroeder has advised Borsini Ranch to locate and retain alternate counsel on several
23 occasions. Schroeder Affidavit ¶¶ 8, 10, 14. Schroeder has provided Borsini Ranch with ample
24 opportunity to substitute an attorney. Schroeder Affidavit ¶ 11. In this case it is the corporate
25 party defendant, Borsini Ranch, who holds the burden of providing substitute counsel, or
26 otherwise risks being barred from participating further in the litigation. 28 U.S.C. § 1654 does



1 not condition Schroeder's withdrawal as counsel upon the provision of a substitute attorney. It is
2 the party's responsibility, not Schroeder's, to find substitute counsel. It is proper to grant
3 Schroeder's motion to withdraw.

4 WHEREFORE, Schroeder's Motion to Withdraw as Counsel should be granted.

5 DATED this 12th day of August, 2009.

6
7 SCHROEDER LAW OFFICES, P.C.

8
9 /s/ Laura A. Schroeder

10 Laura A. Schroeder, NSB 3595

11 Wyatt E. Rolfe, NSB #10735

12 Schroeder Law Offices, P.C.

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14 Reno, NV 89504-4400 Reno, NV 89509

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