

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

UNITED STATES OF AMERICA *ex. Rel.*, )  
Joanne Waters )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
ST. LOUIS PATHOLOGY ASSOCIATES )  
INC., )  
ST. LOUIS CLINCICAL PATHOLOGY LLC, )  
ST. JOHN’S MERCY HOSPITAL SYSTEM, )  
PHYSICIAN DATA MANAGEMENT, and )  
UNITED HEALTHCARE GROUP, INC )  
 )  
Defendants. )

Case No. 4:20-cv-00037-SEP

**RELATOR’S COUNSEL’S MOTION TO WITHDRAW AS COUNSEL  
FOR RELATOR AND FOR STAY**

Counsel for Relator, The Simon Law Firm, P.C., for their motion to withdraw from representing Relator states:

1. The Simon Law Firm, P.C. seeks to withdraw as counsel for Relator upon good cause pursuant to E.D.Mo L.R. 12.02 and Rule 4-1.16 of the Missouri Rules of Professional Conduct. In compliance with E.D.Mo L.R. 4.01, a memorandum in support has been filed contemporaneously with this Motion.
2. Relator consents to the withdrawal and is seeking to find new counsel.
3. The United States has declined to intervene in this case and Relator is seeking substitute counsel.
4. Withdrawal by counsel can be accomplished without materially adverse effect on the interests of Relator pursuant to rule 4-1.16(b)(1) of the Missouri Rules of Professional Conduct as adopted by this Court under E.D.Mo L.R. 12.02.

5. Withdrawal is also permissible for other good cause pursuant to rule 4-1.16(b)(7) of the Missouri Rules of Professional Conduct adopted by this Court under E.D. Mo. L.R. 12.02.
6. Counsel has taken steps to protect Relator's interests upon withdrawal pursuant to 4-1.16(d) of the Missouri Rules of Professional conduct as adopted by the Court under E.D.Mo. L.R. 12.02 pursuant to the above requests herein. Namely, counsel is seeking a stay in order to provide Relator additional time to find a new attorney.
7. Counsel further seeks a 90-day stay of litigation in order to give Relator additional time to secure substitute counsel. The seal in this case was lifted by this Court's order on 8/2/2022 (ECF No. 30). The current deadline to serve Defendants is 10/31/2022.

Wherefore the undersigned counsel respectfully requests this Court grant this Motion allowing the Simon Law Firm, P.C. to withdraw from its representation of the Relator in this matter and grant a 90-day stay of litigation.

Dated: September 30, 2022

Respectfully submitted,

/s/ Anthony G. Simon  
Anthony G. Simon, #38745  
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asimon@simonlawpc.com

Attorneys for Relator

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and accurate copy of the foregoing was filed this 30th day of September 2022 via the Court's filing system, which will send Notices of Electronic Filing to all parties of record.

/s/ Anthony G. Simon

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

|  |   |  |
|--|---|--|
| UNITED STATES OF AMERICA <i>ex. Rel.</i> , | ) |  |
| Joanne Waters                              | ) |  |
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| Plaintiff,                                 | ) |  |
|  | ) |  |
| v.   | ) |  |
|  | ) |  |
| ST. LOUIS PATHOLOGY ASSOCIATES             | ) |  |
| INC.,                                      | ) |  |
| ST. LOUIS CLINCICAL PATHOLOGY LLC,         | ) |  |
| ST. JOHN’S MERCY HOSPITAL SYSTEM,          | ) |  |
| PHYSICIAN DATA MANAGEMENT, and             | ) |  |
| UNITED HEALTHCARE GROUP, INC               | ) |  |
|  | ) |  |
| Defendants.                                | ) |  |

Case No. 4:20-cv-00037-SEP

**MEMORANDUM OF LAW IN SUPPORT OF RELATOR’S COUNSEL’S  
MOTION TO WITHDRAW AND FOR STAY STATEMENT OF FACTS**

This is a False Claims Act claim filed on behalf of the United States by Relator on 01/09/2020. The United States investigated the matter and on 06/24/2022 filed a motion seeking to lift the seal and declining to intervene. The case was unsealed on 08/02/22. ECF No. 30. This case is in the very early stages. The only pending deadline in this case is that Defendants be served by October 31, 2022. *United States v. Oakland Physicians Medical Center*, 44 F.4th 565,568 (6th Cir. 2022) (90-day deadline to serve defendants in an FCA claim starts when the case was unsealed by the court). At this time, Defendants have not been served, no answer has been filed and therefore no case management conference has occurred. Relator has consented to Counsel’s withdrawal. Relator is in the process of securing substitute counsel.

**ARGUMENT**

**I. The Rules of This Court Permit Withdrawal**

The court may grant a motion to withdraw only upon a showing of good cause. *See Sutton v. Buchanan*, No. 1:18-CV-00063-Jar 2022 WL 444086 (E.D. Mo. 2022) (allowing attorneys to withdraw for demonstrating good cause under Mo. S. Ct. R. Prof. Conduct 4-1.16 as adopted by this Court under E.D. Mo. L.R. 12.02). Good cause is generally shown through the Court's Rules of Professional Responsibility. This District has incorporated Missouri's Code of Professional Responsibility. E.D.Mo L.R. 12.02. Missouri Rule 4-1.16(b), therefore, provides the standard this Court uses to determine whether to grant a Motion to Withdraw. *See Sutton v. Buchanan*, No. 1:18-CV-00063-Jar 2022 WL 444086 (E.D. Mo. 2022).

**A. Withdrawal by the Simon Law Firm Will Not Cause Materially Adverse Effects On The Interests of The Relator.**

As incorporated by L.R. 12.02, Missouri Rule 4-1.16(b)(1) permits a lawyer to withdraw from representing a client if withdrawal can be accomplished without material adverse effect on the interests of the client. Rule 4-1.16(b)(1).

This Court considers pending court proceedings and deadlines to determine if withdrawal would have a materially adverse effect on the interests of the client. *See Sanford v. Maid-Rite Corp*, 816 F.3d 546, 550 (8<sup>th</sup> Cir. 2016) (Where attorneys were permitted to withdraw when the case was "in a quiet period before trial" over six months prior to the close of discovery and over one year from the earliest possible trial date). Here, there are no pending deadlines other than service on defendant and that deadline is one month away. ECF No. 30. In addition, Relator is seeking a stay of the litigation. Current counsel has also taken steps to protect Relator's interests, namely counsel is seeking a stay in order to provide Relator additional time to find a new attorney. Therefore, the withdrawal will not cause materially adverse effects on the interests of the Relator.

**B. Other Good Cause Exists.**

As incorporated by E.D.Mo L.R. 12.02, Missouri Rule 4-1.16(b)(7) permits a lawyer to withdraw from representing a client if: “other good cause for withdrawal exists.” Further Missouri Rule 4-1.6(a) states “a lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation, or the disclosure is permitted by Rule 4-1.6(b).” Courts have granted such motions without disclosure of facts by the withdrawing counsel if doing so might violate the duty of confidentiality. *See Cape Dogwood Redevelopment Corp. v. Global Bowling, LLC.*, No. 1:19-CV-23 RLW, 2020 WL 4039310 (E.D. Mo. 2020) (Where attorneys were permitted to withdraw for “professional considerations” while not disclosing the details of those considerations in compliance with Missouri Rule 4-1.6). Here, other good cause exists for the Firm to withdraw from representing Relator.

**II. A Stay of Proceedings For 90 Days Will Allow Relator to Retain New Counsel**

A District Court has broad discretion to stay proceedings as an incident to its power to control its own docket. *Clinton v. Jones*, 520 U.S. 681, 706 (1997). In considering a Motion to Stay, the Court should weigh competing interest including potential hardship to either party as well as judicial economy. *Gould v. Farmers Insurance Exchange*, 326 F.R.D. 530, 531 (E.D. Mo. 2018); *citing Landis v. North American Co.* 299 U.S. 254-55 (1936). A 90-day stay will not cause hardship to either party and will further judicial economy as it will allow Relator additional time to find new counsel.

**CONCLUSION**

For the reasons cited herein, undersigned counsel respectfully requests this Court grant the Motion to Withdraw and to stay proceedings for 90 days from granting of this Motion to allow Relator to retain new counsel.

Dated: September 30, 2022

Respectfully submitted,

**THE SIMON LAW FIRM, P.C.**

/s/ Anthony G. Simon

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/s/ Anthony G. Simon