

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

**National Association of Home
Inspectors, Inc.**, a Minnesota
non-profit corporation,

Plaintiff

v.

Case No. 2:06-cv-11957

Honorable Paul D. Borman

**National Association of Certified
Home Inspectors**, a Colorado
corporation,

Defendant.

**DYKEMA GOSSETT PLLC'S MOTION TO WITHDRAW AS COUNSEL FOR
NATIONAL ASSOCIATION OF CERTIFIED HOME INSPECTORS**

Dykema Gossett PLLC hereby moves pursuant to E.D. Mich. L.R. 83.30 for permission to withdraw from representation of Defendant National Association of Certified Home Inspectors ("NACHI") ("Defendant").

1. This case was commenced in April, 2006 and Dykema Gossett PLLC was retained to represent Defendant as local counsel at the commencement of this case. Dykema Gossett PLLC has vigorously represented the Defendant throughout the pendency of this case, along with NACHI's regular lead counsel, Mark Cohen. Mr. Cohen has been admitted to this District and has handled all motion hearings before the Court.

2. The Michigan Rules of Professional Conduct describe the circumstances where a lawyer may withdraw from representation. MRPC 1.16(b) provides in relevant part:

[A] lawyer may withdraw from representing a client if withdrawal can be accomplished without material adverse effect on the interests of the client, or if:

(4) 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;

(5) the representation will result in an unreasonable financial burden on the lawyer or has been rendered unreasonably difficult by the client; or

(6) other good cause for withdrawal exists.

Good cause exists to withdraw from representation where the client has caused a breakdown in the attorney-client relationship. *Ambrose v. The Detroit Edison Co*, 65 Mich. App. 484, 488 (1975); *Genrow v. Flynn*, 166 Mich. 564, 567-68 (1911) ("The relations between attorney and client are of a delicate and confidential nature. They should have faith in each other, and their relations should be such that they can cordially cooperate.").

3. A breakdown in the attorney-client relationship has developed in this matter as to certain issues, such that Dykema Gossett PLLC can no longer act as counsel for Defendant. Defendant has failed to pay significant sums for the representation of Defendant, thus failing to fulfill its obligation to Dykema Gossett PLLC and providing other good cause for withdrawal.

4. Although Defendant proposed a payment plan on October 10, 2007, to which Dykema Gossett PLLC agreed, Defendant failed to make even the first installment, and has now missed the first two installments.

5. After numerous attempts to resolve these issues, to which Defendant refused and/or failed to respond, Dykema Gossett PLLC sent a letter to Defendant on November 12, 2007, stating that it was filing a motion to withdraw and enclosing the proposed motion.

6. Dykema Gossett PLLC will continue to zealously represent Defendant in this case until such time as an Order of Withdrawal is entered.

7. Defendant is currently represented by co-counsel Mr. Cohen and will not be prejudiced by Dykema Gossett PLLC's withdrawal. No stay is necessary because Mr. Cohen, of Cohen Horner LLP, is already admitted to this District and need only register for electronic filing. Until Mr. Cohen registers, Dykema Gossett PLLC will forward filings and assist with filings as necessary. Thus, Defendant will not be prejudiced by Dykema Gossett PLLC's withdrawal.

8. Counsel for plaintiff was contacted and has not given any objection to this motion.

Respectfully Submitted,

Dated: November 15, 2007

s/Barbara L. Mandell
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BRIEF IN SUPPORT OF DYKEMA GOSSETT PLLC'S MOTION TO WITHDRAW AS COUNSEL FOR NATIONAL ASSOCIATION OF CERTIFIED HOME INSPECTORS

For its Brief in Support of Dykema Gossett PLLC's Motion to Withdraw as Counsel for National Association of Certified Home Inspectors, Dykema Gossett PLLC relies upon MRPC 1.16, the pleadings on file with the Court, and the facts set forth in its motion.

Respectfully Submitted,

Dated: November 15, 2007

s/Barbara L. Mandell
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CERTIFICATE OF SERVICE

I hereby certify that on November 15, 2007, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

Daniel J. Bernard and James E. Roach.

Dated: November 15, 2007

By: s/Donna Crumit