

DISTRICT COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

LARRY L. HATTER,

Plaintiff,

v.

GUARDIAN INSURANCE COMPANY,

Defendant.

1:18-cv-00041

TO: Kye Walker, Esq.
Maria Tankenson Hodge, Esq.

ORDER

THIS MATTER is before the Court upon Defendant's Response to Motion for Leave to File *Ex Parte* Submission (ECF No. 39), which the Court has characterized as a Motion for Reconsideration and will hereinafter refer to as such. Plaintiff filed a response in opposition to the said motion (ECF No. 41), and Defendant filed a reply thereto (ECF No. 42).

Plaintiff's response to the immediate motion revealed to Defendant that Plaintiff sought *ex parte* leave to file a motion to withdraw as counsel, which it did in fact do after the Court granted it leave to do so. See ECF No. 37. Plaintiff's counsel sought to file that motion *ex parte*, because "[t]he information contained in [that] motion references attorney-client communications, which should be reviewed by the Court *in camera*." ECF No. 35. Defendant argues that allowing Plaintiff to file this type of motion *ex parte* was improper, and the Court agrees, particularly considering that Defendant's counsel had already been informed that Plaintiff's counsel was anticipating withdrawal. See Def.'s Reply at Ex. 1.

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At the motions hearing—which the Court has rescheduled from May 13, 2019 to May 20, 2019—Plaintiff's counsel shall thus set forth the reasons for withdrawal without exposing any attorney-client privilege. Plaintiff's counsel, if necessary, may submit privileged communications for *in camera* review. *See, e.g., Lewis v. Brown*, 2009 U.S. Dist. LEXIS 44884, at *6 n.3 (D.N.J. May 27, 2009) (addressing similar issue); *Weinberger v. Provident Life & Cas. Ins. Co.*, 1998 U.S. Dist. LEXIS 19859, at *2 (S.D.N.Y. Dec. 23, 1998) (“[I]t is appropriate for a Court considering a counsel’s motion to withdraw to consider *in camera* submissions in order to prevent a party from being prejudiced by the application of counsel to withdraw”) (italics not in original).

It is now hereby **ORDERED**:

1. That Defendant's Motion for Reconsideration (ECF No. 39) is **GRANTED**.
2. That this Court's Order Granting Plaintiff's Motion for Leave to File *Ex Parte* Motion (ECF No. 36) is **VACATED**.
3. That Defendant's *Ex Parte* Motion to Withdraw as Counsel for Plaintiff (ECF No. 37) is **UNSEALED**.
4. That the Motions Hearing originally scheduled for May 13, 2019 at 10:30 a.m. (ECF No. 38) is rescheduled to May 20, 2019 at 10:30 a.m.

ENTER:

Dated: May 10, 2019

/s/ George W. Cannon, Jr.
GEORGE W. CANNON, JR.
MAGISTRATE JUDGE