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7 Attorneys for Plaintiff DENNIS MONTGOMERY, THE MONTGOMERY FAMILY TRUST, AND
THE TRUSTEES OF THE MONTGOMERY FAMILY TRUST.

8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**

10 DENNIS MONTGOMERY, and the)	
11 MONTGOMERY FAMILY TRUST,)	3:06-CV-00056-PMP-VPC
)	BASE FILE
12 Plaintiffs,)	
)	3:06-CV-00145-PMP-VPC
13 v.)	
)	<u>EX PARTE MOTION TO WITHDRAW</u>
14 ETREPPID TECHNOLOGIES, LLC,)	<u>AS COUNSEL FOR MONTGOMERY.</u>
15 WARREN TREPP, and the UNITED)	
STATES DEPARTMENT OF DEFENSE,)	
)	
16 Defendants.)	
)	
17 _____)	
18 AND ALL RELATED MATTERS.)	
)	

19 TO ALL PARTIES AND ATTORNEY OF RECORD: Attorney Michael Flynn and Attorney
20 Carla DiMare (and the Law Office of Carla DiMare), (hereinafter “counsel”), who were admitted pro
21 hac vice in the above captioned cases, move this Court for an Order allowing them to withdraw
22 forthwith from representing Dennis Montgomery, individually and as Trustee of the Montgomery
23 Family Trust, Brenda Montgomery as Trustee of the Montgomery Family Trust, and the Montgomery
24 Family Trust (hereinafter collectively “Montgomery”), in the above captioned cases and the related
25 search warrant matter, 3:06-cv-0263. Montgomery would not consent to withdrawal, and no new
26 Montgomery attorney has contacted counsel, necessitating this ex parte motion.

27 This motion is made on the grounds that “good cause” exists for granting this motion. *See e.g.*
28 *Page v. Walser*, 46 Nev. 390 (1923)[attorney can withdraw for good cause]. Counsel has always fully
and diligently performed the services for which they were retained, as the record and pleadings clearly

1 reflect. Montgomery “has breached an obligation for the payment of fees,” and “has engaged in
2 conduct that has made continued representation unreasonably difficult.” (Attorney Declarations, filed
3 herewith). The best interest of justice and these cases will be served by allowing withdrawal forthwith
4 and GRANTING this motion.

5 Notice has been given as required by law. Montgomery has been served with a copy of all
6 moving papers related to this withdrawal motion via e-mail at his current e-mail address and U.S.
7 mail. (See Atty. Declarations, filed herewith; Certificate of Service). Also, he is still represented by
8 and in communication with local counsel, Logar & Pulver, which has been served with these moving
9 papers, along with all other parties who have appeared in these cases. (Certificate of Service).

10 Nevada Supreme Court Rule 173 states in pertinent part that “. . . a member of the state bar,
11 . . . may withdraw at any time with the consent of the client but if the consent of the client cannot be
12 obtained then he should obtain the approval of the court for his withdrawal.” Counsel gave written
13 notice to Montgomery of a Notice of Intent to Withdraw, which gave Montgomery reasonable time
14 to find substitute counsel. However, in response to that said Notice, Montgomery said he would not
15 consent to withdrawal. If Montgomery claims he needs additional time to engage substitute
16 attorney(s), this Court should not require counsel to remain in the case without full payment made by
17 Montgomery forthwith to counsel. Alternatively, if Montgomery claims he needs more time to engage
18 substitute attorneys, this Court should GRANT this motion and grant Montgomery additional time to
19 engage replacement counsel, if any.

20 Counsel has taken “reasonable steps to avoid reasonably foreseeable prejudice” to Montgomery.
21 *See* A.BA. Rule 2.110 A-2 [“In any event, a lawyer should not withdraw . . . until he has taken
22 reasonable steps to avoid foreseeable prejudice to the rights of his client, allowing time for employment
23 of other counsel, delivering to the client all papers and property to which the client is entitled, and
24 complying with the applicable laws and rules.”] Again, counsel gave written notice to Montgomery
25 of a Notice of Intent to Withdraw, which gave Montgomery reasonable time to engage substitute
26 attorney(s). Counsel also communicated both orally and in writing to local counsel that they would
27 help in a smooth transition, and, in fact, has already begun to deliver Montgomerys’ papers and
28 property in these cases. As the Court may know, Montgomery has had two local counsel in Reno,

