

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

Jo Ann Hoeppner-Cruz v. Robert W. Brower

Hoeppner-Cruz v. Brower · No. 24-cv-05170-TSH · Decided December 17, 2025

SUMMARY

The court grants attorney Thomas Dwayne Reid’s motion to withdraw as counsel for Jo Ann Hoeppner-Cruz because of his practice closure and financial insolvency, subject to his continuing service obligations until substitute counsel appears. The court vacates pending dates, stays the jury trial, discharges the order to show cause, and denies as moot the motion to continue. Because Hoeppner-Cruz is a non-attorney trustee, the court orders her to obtain substitute counsel or file a status report by January 15, 2026, warning that failure to do so could result in dismissal.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Thomas S. Hixson
JURISDICTION	United States District Court for the Northern District of California
DECIDED	December 17, 2025
DOCKET	24-cv-05170-TSH
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff's counsel moved to withdraw shortly before trial. The court granted the motion with conditions, stayed the jury trial, vacated pending dates, discharged an order to show cause, and denied as moot plaintiff's ex parte motion to continue the trial.
STANDARD OF REVIEW	A motion to withdraw as counsel is committed to the sound discretion of the trial court. The court considers the reason for withdrawal, possible prejudice to the litigants, and the extent to which withdrawal may delay resolution of the case.
PRECEDENTIAL VALUE	unpublished, nonprecedential district court order

TOPICS

- civil procedure
- trusts
- trustee duties
- probate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether counsel should be permitted to withdraw from representing plaintiff because of financial hardship, practice closure, plaintiff's consent, and compliance with notice requirements.
2. Whether withdrawal should be conditioned on counsel's remaining counsel of record to serve filings until substitute counsel appears.
3. Whether a non-attorney trustee may represent a trust pro se in federal court.
4. Whether the pending trial and other dates should be vacated or stayed and the related show cause and continuance matters resolved.

HOLDINGS

1. Withdrawal was appropriate because counsel's practice closure and financial insolvency constituted good cause, plaintiff consented, and counsel provided reasonable advance notice and otherwise complied with applicable local and professional-conduct rules.
2. Withdrawal was granted on the condition that Reid remain counsel of record solely to serve filed documents on Hoepfner-Cruz until substitute counsel appears, with proof of service to be filed within three business days.
3. A non-attorney trustee may not represent the Trust pro se in this federal civil action; the Trust must appear through licensed counsel.

KEY QUOTATIONS

"The decision to permit counsel to withdraw is within the sound discretion of the trial court." (at 2)

"A non-attorney trustee cannot represent a trust in a nonprobate general civil suit." (at 4)

"Because a non-attorney trustee may not appear on behalf of a trust except by counsel, Hoepfner-Cruz has until January 15, 2026, to find substitute counsel." (at 5)

FACTUAL BACKGROUND

Jo Ann Hoepfner-Cruz sued Robert W. Brower concerning the sale of property held by the Anthony J. Freitas and Jacqueline Hoepfner-Freitas 1997 Revocable Trust, alleging breach of fiduciary duty. Her counsel, Thomas Dwayne Reid, stated that he had to close his law practice because of significant financial loss and insolvency, including cancellation of malpractice insurance for nonpayment. Reid notified plaintiff and defendant of his inability to continue, plaintiff consented to withdrawal, and defendant did not oppose it.

PROCEDURAL HISTORY

Hoepfner-Cruz filed this diversity-related trust dispute on August 15, 2024, alleging that Brower breached fiduciary duties while serving as trustee. The court had set the matter for jury trial and ordered supplemental briefing concerning the probate exception. After plaintiff failed to comply with the briefing order and an order to

show cause, her counsel moved to withdraw because of financial insolvency and closure of his practice. Plaintiff consented, and defendant did not oppose the withdrawal.

DISPOSITION

other

CASES CITED

- United States v. Carter, 560 F.3d 1107, 1113 (9th Cir. 2009)
- Robinson v. Delgado, No. CV02-1538 NJV, 2010 WL 3259384, at *2 (N.D. Cal. Aug. 18, 2010)
- Nehad v. Mukasey, 535 F.3d 962, 970 (9th Cir. 2008)
- El Hage v. U.S. Sec. Assocs., Inc., No. C06-7828-THE, 2007 WL 4328809, at *1 (N.D. Cal. Dec. 10, 2007)
- No. 15-cv-01489-LHK, 2015 WL 4760506, at *8 (N.D. Cal. Aug. 12, 2015)
- Bumb v. Gobin, No. 25-cv-04729-SVK, 2025 WL 3128196, at *1 (N.D. Cal. Nov. 7, 2025)
- C.E. Pope Equity Tr. v. United States, 818 F.2d 696, 697-98 (9th Cir. 1987)
- Aulisio v. Bancroft, 230 Cal. App. 4th 1516, 1523 (2014)
- Ziegler v. Nickel, 64 Cal. App. 4th 545, 549 (1998)
- Emp. Painters' Trust v. Ethan Enters., Inc., 480 F.3d 993, 998 (9th Cir. 2007)

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