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 8 Attorneys for FREDRICK RIZZOLO aka RICK RIZZOLO;
 THE RICK AND LISA RIZZOLO FAMILY TRUST;
 9 THE RICK J. RIZZOLO SEPARATE PROPERTY TRUST;
 and THE RJR TRUST

10 UNITED STATES DISTRICT COURT
 11 DISTRICT OF NEVADA

12 KIRK and AMY HENRY

CASE NO. 2:08-CV-635-PMP-GWF

13 Plaintiffs,

14 vs.

**MOTION TO WITHDRAW AS
 ATTORNEYS OF RECORD**

15 FREDRICK RIZZOLO aka RICK RIZZOLO, an
 individual; LISA RIZZOLO, individually and as
 16 trustee of The Lisa M. Rizzolo Separate Property
 Trust and as successor trustee of The Rick J.
 17 Rizzolo Separate Property Trust; THE RICK
 AND LISA RIZZOLO FAMILY TRUST; THE
 18 RICK J. RIZZOLO SEPARATE PROPERTY
 TRUST; THE LISA M. RIZZOLO SEPARATE
 19 PROPERTY TRUST; THE RJR TRUST; and
 THE LMR TRUST,

20 Defendants.

21

LISA RIZZOLO,

22 Crossclaimant,

23 vs.

24 FREDRICK RIZZOLO aka RICK RIZZOLO,
 25 individually and as trustee of The Rick J. Rizzolo
 Separate Property Trust; RICK J. RIZZOLO
 26 SEPARATE PROPERTY TRUST, and THE
 RLR TRUST,

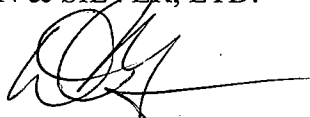
27 Counterdefendant.
 28

1 COME NOW Dominic P. Gentile, Esq., Paola M. Armeni, Esq., and Margaret W.
2 Lambrose, Esq., of the law firm of Gordon Silver, and pursuant to the Nevada Rule of
3 Professional Conduct ("NRPC") 1.16, move to withdraw as attorneys for Defendant Fredrick
4 Rizzolo (hereinafter "Mr. Rizzolo"). This motion is made and based upon the points and
5 authorities and the Declaration of Dominic P. Gentile ("Gentile Declaration") attached hereto,
6 and such argument and evidence as may be presented at the hearing on this motion, should any
7 occur.

8 Mr. Rizzolo's last known address is: Fredrick John Rizzolo, #41390-048, c/o Taft
9 Correctional Institution, P.O. Box 7001, Taft, CA 93268.

10 DATED this 23rd day of March, 2012.

11 GORDON & SILVER, LTD.

12 By: 

13 DOMINIC P. GENTILE, ESQ.
14 Nevada Bar No. 1923
15 PAOLA M. ARMENI, ESQ.
16 Nevada Bar No. 8357M
17 MARGARET W. LAMBROSE, ESQ.
18 Nevada Bar No. 11626
19 3960 Howard Hughes Pkwy., 9th Fl.
20 Las Vegas, NV 89169
21 Attorneys for FREDRICK RIZZOLO

22 **DECLARATION OF DOMINIC P. GENTILE, ESQ.**
23 **IN SUPPORT OF MOTION TO WITHDRAW**

24 I, Dominic P. Gentile, Esq., declare in support of this Motion to Withdraw as Attorney of
25 Record, in the matter styled KIRK and AMY HENRY vs. THE POWER COMPANY, INC., a
26 Nevada Corporation, dba CRAZY HORSE TOO GENTLEMEN'S CLUB; RICK RIZZOLO,
27 Case No. A440740, filed in the Eighth Judicial District Court of Nevada:

28 1. I am an attorney duly licensed to practice before all Courts in the State of Nevada, am a
partner in the law firm of Gordon Silver since 2007 and am one of the attorneys for Mr. Rizzolo
in the instant matter.

2. Mr. Rizzolo has been a client of this firm since at least 2003.

1 3. Mr. Rizzolo entered into a Legal Representation Agreement with Gordon Silver as to this
2 matter on May 17, 2010 and Gordon Silver has represented Mr. Rizzolo in this action pursuant to
3 its terms. The Legal Representation Agreement provides that fees would be billed hourly, at
4 stated hourly rates.

5 4. As an initial retainer, a third person paid \$40,000 to this firm for a specific purpose and
6 informed us that he had no intention at that time of paying any more on Mr. Rizzolo's behalf.

7 5. When the initial payment was exhausted, Mr. Rizzolo continued to pay \$3,000 per month
8 toward his outstanding balance for a period of time. Those funds were obtained from his father's
9 widow and paid over to Gordon Silver.

10 6. The last payment was received on Mr. Rizzolo's account on February 25, 2011 in the
11 amount of \$3,000.

12 7. Gordon Silver has performed its obligations as counsel for Mr. Rizzolo in a skillful and
13 diligent manner. However, Mr. Rizzolo has been rendered incapable of paying Gordon Silver in
14 accordance with the terms of our agreement.

15 8. Upon investigation as to Mr. Rizzolo's ability to perform in accordance with his
16 agreement with Gordon Silver, it appears that there are no assets or revenue streams from which
17 performance can take place..

18 9. On July 20, 2011, the United States District Court, District of Nevada, ordered that Amy
19 and Kirk Henry have priority to any payments from the Piazza Partnership to Lions, a transaction
20 unrelated to the present suit. (See July 20, 2011, Minutes of Proceedings, attached hereto as
21 **Exhibit A.**) Mr. Rizzolo was to arrange said payments and was strictly prohibited from taking
22 any action to hinder the payments of those monies, including their use to maintain legal counsel.

23 10. Despite Gordon Silver's diligent representation of their interests, Mr. Rizzolo is unable to
24 pay Gordon Silver pursuant to the terms of the Legal Representation Agreement, despite
25 repeated demands therefore. In all, Mr. Rizzolo's balance due to Gordon Silver for this matter is
26 \$187,529.42.

27 11. In light of the United State District Court's order, Mr. Rizzolo has no other sources of
28 income or assets to meet his obligations to Gordon Silver. Because Mr. Rizzolo has no counter or

1 cross claims, from which recovery is possible, Gordon Silver does not anticipate any future
2 income from a successful representation of Mr. Rizzolo, whereby representation under a
3 contingency arrangement is not possible. Similarly, because of the nature of this case, Mr.
4 Rizzolo is not entitled to Court appointed representation, such that Gordon Silver cannot
5 continue representation in such a fashion.

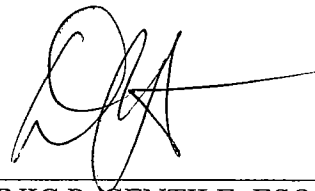
6 12. Gordon Silver and Mr. Rizzolo have maintained a working relationship, absent strife,
7 throughout the proceedings. As such, the present motion is not the result of any differences
8 between Gordon Silver and the client, but instead the inability of Mr. Rizzolo to meet his
9 financial obligations to Gordon Silver.

10 13. Defendant's last known address is: Fredrick John Rizzolo, #41390-048, c/o Taft
11 Correctional Institution, P.O. Box 7001, Taft, CA 93268.

12 14. I personally visited with Mr. Rizzolo at his last known address on Sunday, January 22,
13 2012 and advised him of our intention to file this motion unless payment could be arranged. I
14 also served him with a copy of the proposed Motion at that time.

15 I declare under penalty of perjury of the laws of the State of Nevada that the foregoing
16 is true and correct.

17 Executed this 23rd day of March, 2012.



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19
20 _____
DOMINIC P. GENTILE, ESQ.

21 **POINTS AND AUTHORITIES**

22 I.

23 **THIS COURT SHOULD GRANT GORDON SILVER'S APPLICATION TO**
24 **WITHDRAW AS ATTORNEYS OF RECORD FOR MR. RIZZOLO.**

25 As set forth in the Declaration of Dominic P. Gentile, notice of Gordon Silver's Motion
26 to Withdraw was mailed to Plaintiffs and all Defendants on ____, 2012. Gordon Silver has good
27 cause to withdraw as counsel under the Nevada Rules of Professional Conduct ("NRPC") 1.16,
28 which provides, in pertinent part, a lawyer may withdraw from representation where:

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(1) Withdrawal can be accomplished without material adverse effect on the interests of the client;

...

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

(7) Other good cause exists for withdrawal.

See NRPC 1.16(b).

Here, as determined in the Gentile Declaration, Gordon Silver's further representation of Mr. Rizzolo has been made untenable by his inability to pay for Gordon Silver's services and further representation of Mr. Rizzolo creates an unreasonable financial burden on Gordon Silver. Mr. Rizzolo has no assets or accounts receivable from which Gordon Silver can be paid the \$187,529.42 due and owing. Much of the balance is overdue by one full year.

The withdrawal can be accomplished without adverse effect on the interests of the client because Gordon Silver's withdrawal will not delay proceedings in this matter as there are no timelines pending in the action. Therefore, good cause exists and Gordon Silver's withdrawal should be granted.

III.

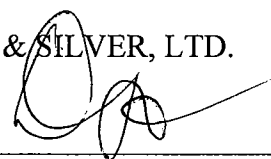
CONCLUSION

It is respectfully requested that this Court enter an order approving Gordon Silver's withdrawal as attorneys for Defendant Fredrick Rizzolo.

DATED this 23rd day of March, 2012.

GORDON & SILVER, LTD.

By: _____



DOMINIC P. GENTILE, ESQ.

Nevada Bar No. 1923

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Nevada Bar No. 8357M

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Attorneys for FREDRICK RIZZOLO