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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

Dennis Montgomery,

Plaintiff,

v.

James Risen, et al.,

Defendants.

Case No.: 15-cv-02035-AJB-JLB

**Order Denying Motions to Compel  
Without Prejudice**

[ECF Nos. 1, 4]

On the docket for the above-captioned case, there are two pending motions to compel compliance with a subpoena for the deposition of and documents from a third party witness. (ECF Nos. 1, 4.) As explained below, the motions are not properly before the Court.

Civil Local Rule 83.3.b provides, “Only a member of the bar of this court may enter appearances for a party.” Further, “Admission to and continuing membership in the bar of this court is limited to attorneys of good moral character who are **active members in good standing of the State Bar of California**.” CivLR 83.3.c (emphasis added). However, there is a pro hac vice application process whereby an attorney who is admitted to practice in another State may “upon written application and in the discretion of the court, be permitted to appear and participate in a particular case.” CivLR 83.3.c.4. “An

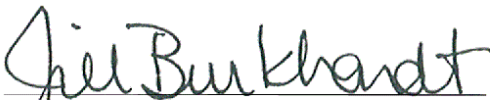
1 attorney may make a special appearance for a limited proceeding only with the  
2 permission of the court.” CivLR 83.3.f.4. Finally, “The court may order any person who  
3 practices before it in violation of Civil Local Rule 83.3 to pay an appropriate penalty.”  
4 CivLR 83.3.h.

5 Here, plaintiff’s counsel, Larry Klayman, entered an appearance and filed motions  
6 in this court. Mr. Klayman’s signature line states that he is an attorney who is “Admitted  
7 in Florida, **not in California.**” (*See, e.g.*, ECF No. 1 at 2 (emphasis added).) Despite not  
8 being admitted to the State Bar of California, Mr. Klayman did not file a pro hac vice  
9 application contemporaneously with his motion papers, nor did he attempt to comply  
10 with Civil Local Rule 83.3 thereafter. Further, Mr. Klayman has not demonstrated  
11 diligence in complying with the Civil Local Rules of this court as demonstrated by the  
12 court’s notices of non-compliance with its rules. (*See* ECF Nos. 2, 3.) Based on the  
13 record before the court, plaintiff’s attorney, Larry Klayman, is practicing in this court in  
14 violation of Civil Local Rule 83.3.

15 Therefore, the motions to compel (ECF Nos. 1, 4) are DENIED without prejudice  
16 to re-filing on or before **October 9, 2015** and in compliance with Civil Local Rule 83.3.  
17 Should Mr. Klayman seek to practice in this court by re-filing plaintiff’s motion(s) to  
18 compel, then a pro hac vice application pursuant to Civil Local Rule 83.3.c shall also be  
19 filed on or before **October 9, 2015**. Any further violations of the Civil Local Rules shall  
20 constitute grounds for sanctions.

21 IT IS SO ORDERED.

22 Dated: October 2, 2015

23   
24 Hon. Jill L. Burkhardt  
25 United States Magistrate Judge  
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