

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

JOHN G. BRANCA, Special
Administrator of the Estate of Michael
J. Jackson; JOHN MCCLAIN, Special
Administrator of the Estate of Michael
J. Jackson; TRIUMPH
INTERNATIONAL, INC.,

Plaintiffs/Appellees,

vs.

HEAL THE WORLD
FOUNDATION, California
corporation and UNITED FLEET, a
California corporation,

Defendants/Appellants.

Case Number(s):
11-56926, 11-57048 (Consolidated)

C.D. No. 2:09-cv-07084-DMG
Central District of California,
Los Angeles

**APPELLEES' RESPONSE TO
APPELLANTS' MOTION TO
WITHDRAW AS COUNSEL OF
RECORD AND REQUEST TO
EXTEND TIME IN ORDER TO
OBTAIN SUBSTITUTE
COUNSEL**

Plaintiffs-Appellees John G. Branca, Co-Executor of the Estate of Michael J. Jackson, John McClain, Co-Executor of the Estate of Michael J. Jackson, and Triumph International, Inc. respectfully request that the Court consider the facts set forth in the concurrently filed Declaration of Nina D. Boyajian in ruling on Defendants-Appellants Heal the World Foundation and United Fleet's Motion to Withdraw as Counsel of Record and Request to Extend Time in Order to Obtain Substitute Counsel.

Dated: August 29, 2012

GREENBERG TRAURIG, LLP

By: /S/ NINA D. BOYAJIAN
NINA D. BOYAJIAN
GREENBERG TRAURIG, LLP
VINCENT H. CHIEFFO (SBN 49069)
E-Mail: ChieffoV@gtlaw.com
NINA D. BOYAJIAN (SBN 246415)
E-Mail: BoyajianN@gtlaw.com
1840 Century Park East, Suite 1900
Los Angeles, 90067-2101
Tel: 310-586-7700/Fax: 310-586-7800

Attorneys for Plaintiffs-Appellees John G. Branca, Co-Executor of the Estate of Michael J. Jackson; John McClain, Co-Executor of the Estate of Michael J. Jackson; Triumph International, Inc.

Certificate of Compliance Pursuant to 9th Circuit Rules 28-4, 29-

2(c)(2) and (3), 32-2 or 32-4

This brief complies with the length limits set forth at Ninth Circuit Rule 32-4. The brief's type size and type face comply with Fed. R. App. P. 32(a)(5) and (6).

Dated: August 29, 2012

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NINA D. BOYAJIAN (SBN 246415)
E-Mail: BoyajianN@gtlaw.com
1840 Century Park East, Suite 1900
Los Angeles, 90067-2101
Tel: 310-586-7700/Fax: 310-586-7800

Attorneys for Plaintiffs-Appellees John G. Branca, Co-Executor of the Estate of Michael J. Jackson; John McClain, Co-Executor of the Estate of Michael J. Jackson; Triumph International, Inc.

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CERTIFICATE OF SERVICE

All Case Participants are Registered for the Appellate CM/ECF System

I hereby certify that I electronically filed the foregoing APPELLEES' RESPONSE TO APPELLANTS' MOTION TO EXTEND TIME TO FILE BRIEF with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on August 29, 2012.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system to the following party(ies):

Jeremy D. Eveland, Esq.
Eveland & Associates
8833 South Redwood Road, Suite C
West Jordan, UT 84088
Tel: 801-676-5506; Fax: 801-676-5508
Email: jared@evelandlawfirm.com
Counsel for Defendants-Appellants Heal the World Foundation and United Fleet

Signature

/s/ Nina D. Boyajian

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**DECLARATION OF NINA D.
BOYAJIAN IN SUPPORT OF
APPELLEES' RESPONSE TO
APPELLANTS' MOTION TO
WITHDRAW AS COUNSEL OF
RECORD AND REQUEST TO
EXTEND TIME IN ORDER TO
OBTAIN SUBSTITUTE
COUNSEL**

DECLARATION OF NINA D. BOYAJIAN

I, Nina D. Boyajian, declare and state:

1. I am an associate with the law firm of Greenberg Traurig, LLP, counsel of record for Plaintiffs-Appellees John G. Branca and John McClain, Co-Executors of the Estate of Michael J. Jackson (“Estate”) and Triumph International, Inc. (collectively, “Appellees”). I am licensed to practice law in the State of California and before this Court. I have personal knowledge of the facts set forth in this Declaration and, if called and sworn as a witness, I could and would testify competently with respect thereto. I submit this Declaration in support of Appellee’s response to Defendants-Appellants Heal the World Foundation and United Fleet’s (“Appellants”) Motion to Withdraw as Counsel of Record and Request to Extend Time in Order to Obtain Substitute Counsel.

2. On March 23, 2010, Appellants’ former counsel in the trial court, Newman & Newman, filed a motion to withdraw as attorney of record, citing non-payment of fees as the reason for withdrawal. The motion was granted on May 10, 2010.

3. On July 19, 2010, the Cohen I.P. Law Group, P.C. appeared on behalf of Appellants in the trial court.

4. On October 4, 2010, the Cohen I.P. Law Group, P.C. filed a motion to withdraw as counsel, citing non-payment of fees as the reason for withdrawal.

5. On November 1, 2010, the Law Offices of Edgar B. Pease III appeared on behalf of Appellants in the trial court.

6. On May 16, 2011, Mr. Pease requested to withdraw as counsel for Appellants.

7. On May 31, 2011, the Law Office of Scott Barbag appeared on behalf of Appellants in the trial court.

8. On August 29, 2011, the law firm of Smith Campbell Clifford Kearney Gore requested to be substituted as counsel of record for Appellants in the trial court, and also requested an extension of time to file Appellants' notice of appeal. Both the request and the extension were granted.

9. On January 13, 2012, the law firm of Smith Campbell Clifford Kearney Gore filed a motion to withdraw as counsel, citing non-payment of fees as the reason for the withdrawal. *See* Dkt. 10-2. The order was granted on January 20, 2012. *See* Dkt. 11.

10. On February 8, 2012, current counsel of record, Eveland & Associates, appeared on behalf of Appellants. *See* Dkt. 13.

11. On May 23, 2012, Mr. Eveland filed a motion to extend the time to file Appellants' opening brief, which was then due on June 1, 2012. *See* Dkt. 17-2. Mr. Eveland cited difficulties in obtaining the transcript as the primary reason for the requested extension.

12. The 90-day extension requested by Mr. Eveland was granted on June 11, 2012. *See* Dkt. 19.

13. On July 25, 2012, Mr. Eveland filed a motion in the district court requesting that documents be unsealed with respect to Appellants' counsel. That motion was granted on August 22, 2012.

14. Mr. Eveland filed the current motion to withdraw as counsel on August 28, 2012, citing non-payment of fees as the reason for the withdrawal.

15. Appellants' opening brief is currently due on August 30, 2012. *See* Dkt. 19.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this Declaration was executed this 29th day of August, 2012 at Los Angeles, California.

/S/ NINA D. BOYAJIAN
NINA D. BOYAJIAN
GREENBERG TRAURIG, LLP
VINCENT H. CHIEFFO (SBN 49069)
E-Mail: ChieffoV@gtlaw.com
NINA D. BOYAJIAN (SBN 246415)
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Jeremy D. Eveland, Esq.
Eveland & Associates
8833 South Redwood Road, Suite C
West Jordan, UT 84088
Tel: 801-676-5506; Fax: 801-676-5508
Email: jared@evelandlawfirm.com
Counsel for Defendants-Appellants Heal the World Foundation and United Fleet

Signature

/s/ Nina D. Boyajian