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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Stillwell Madison LLC,	}	No. CV-19-03563-PHX-SPL
	}	
Plaintiff,	}	ORDER
vs.	}	
	}	
Girardi & Keese, et al.,	}	
	}	
Defendants.	}	

15 Before the Court is Defendants’ Motion to Dismiss. (Doc. 9) For the following
16 reasons, the Motion will be denied without prejudice.

17 **I. Background**

18 This dispute arises from a loan agreement and personal guaranty executed by
19 Plaintiff and Defendant Thomas V. Girardi. (Doc. 1) Currently, Defendants’ counsel of
20 record is listed as Phillip A. Baker and Robert C. Baker—both attorneys at the Los Angeles,
21 California law firm Baker Keener & Nahra LLP.

22 On August 7, 2019, Robert C. Baker filed the Motion to Dismiss on behalf of
23 Defendants, arguing that Plaintiff’s breach of contract claims are governed by the
24 applicable contracts’ arbitration clause. (Doc. 9 at 3) In response, Plaintiff argued that the
25 Motion should be stricken because Defendants’ signatory counsel (Robert C. Baker) was
26 not properly admitted to practice before this Court. (Doc. 11 at 2-3) On August 22, 2019,
27 Patrick J. McGroder III—from the Arizona-based law firm Beus Gilbert PLLC—filed a
28 reply on Defendants’ behalf. (Doc. 12) Mr. McGroder asserted that Robert C. Baker filed

1 the Motion with the good faith belief that he was already admitted *pro hac vice* to this
2 District. (Doc. 12 at 4) Mr. McGroder explained that Robert C. Baker was admitted *pro*
3 *hac vice* in a separate case, and therefore, he believed his admission to the District applied
4 in this case as well. (Doc. 12 at 4) In addition, Mr. McGroder assured the Court that he
5 would serve as local counsel for Defendants. (Doc. 12 at 4) Mr. McGroder requested that,
6 if the Court found cause to dismiss the Motion, then the Court give Defendants leave to
7 refile the Motion. (Doc. 12 at 4)

8 **II. Discussion**

9 Admission *pro hac vice* is not a right granted either by statute or the Constitution,
10 but it is a routine practice throughout the country. *See Leis v. Flynt*, 439 U.S. 438, 442, 451
11 (1979). In the federal system, a district court's local rules set the requirements for an
12 attorney to be admitted *pro hac vice*, and those rules have the force of law. *See*
13 *Hollingsworth v. Perry*, 558 U.S. 183, 191 (2010) (citation omitted). In the District of
14 Arizona, “[a]n attorney who is admitted to practice in another U.S. District Court, and who
15 has been retained to appear in this Court may, upon written application and in the discretion
16 of the Court, be permitted to appear and participate *in a particular case*.” LRCiv. 83.1(b)(2)
17 (emphasis added).


18 On September 11, 2019, the Clerk's Office granted Phillip A. Baker's application
19 to appear *pro hac vice* in this case. However, Phillip A. Baker did not sign the Motion to
20 Dismiss and has not otherwise appeared on behalf of Defendants in this case. In the reply,
21 Mr. McGroder asserted that Robert C. Baker would reapply for admittance *pro hac vice*.
22 (Doc. 12 at 4) However, as of the date of this Order, Robert C. Baker has not been admitted
23 by the Clerk's Office to appear in this case. Additionally, Mr. McGroder failed to file a
24 notice of association pursuant to Local Rule of Civil Procedure 83.3(b) before submitting
25 the reply.¹

26
27 ¹ Local Rule 83.3(b)(4) provides that “[a]n occasional court appearance or filing of a
28 pleading, motion or other document at the request of an attorney of record shall not require
the filing of a notice of substitution or association.” Because Mr. McGroder filed the reply
on behalf of an attorney who is not authorized to serve as the attorney of record, the Court

1 The Court finds that neither Robert C. Baker, nor Mr. McGroder have authorization
2 to appear in this case. Consequently, the Court will not consider the Motion on its merits
3 at this time. *See* Fed. R. Civ. P. 11 (“Every pleading, written motion, and other paper must
4 be signed by at least one attorney of record in the attorney’s name.”). Accordingly,

5 **IT IS ORDERED** that the Motion to Dismiss is **denied without prejudice**.
6 Defendants shall have **fourteen days** from the date of this Order to refile the Motion upon
7 a showing of compliance with Local Rule 83.1(b) and/or Local Rule 83.3(b) or otherwise
8 respond as provided by Federal Rule of Civil Procedure 12.

9 Dated this 13th day of January, 2020.

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12 Honorable Steven P. Logan
13 United States District Judge
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finds that Local Rule 83.3(b)(4) is inapplicable here.