

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

SHARON BLACKMON-MALLOY, <u>et al.</u> ,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	C.A. 01-cv-2221 (EGS)
	)	
UNITED STATES CAPITOL POLICE BOARD,	)	
	)	
Defendant.	)	
_____	)	

**PLAINTIFFS' COUNSEL'S MOTION FOR LEAVE TO WITHDRAW**

Undersigned counsel for Plaintiffs Sharon Blackmon-Malloy, *et al.*, hereby move this Court for leave to withdraw from representation of the Plaintiffs they represent<sup>1</sup>, pursuant to Local Rule LCvR 83.6(c), and for reasons therefor state the following:

1. The firm of Gebhardt & Associates, LLP, which formerly represented the Plaintiffs in this matter, ceased to exist on May 31, 2014. The individual members of the firm, two of whom are now solo practitioners, no longer have the firm resources necessary to represent the Plaintiffs in this case. The other attorneys formerly affiliated with Gebhardt & Associates practice with firms unwilling or unable to undertake

---

<sup>1</sup> Undersigned counsel do not represent those Plaintiffs who are represented by Nathaniel D. Johnson, Esq. Further, Plaintiff Derrick Macon represents himself *pro se*.

representation of the Plaintiffs. Undersigned counsel are therefore ethically required to withdraw pursuant to Rule 1.1 of the D.C. Rules of Professional Conduct, because they lack the resources to manage a large multi-party case and proposed class action of nearly 300 Plaintiffs.<sup>2</sup> Although previous motions to certify a class in this case have been denied without prejudice, if and when the Court deals with class certification, Federal Rule of Civil Procedure 23(g) would prevent the Court from appointing the undersigned counsel to represent the class because they lack the resources to do so.<sup>3</sup>

2. The undersigned attorneys serving as Plaintiffs' counsel no longer have the financial resources to handle this case. As above-noted, there is no longer a law firm to pay the costs of counsel and to advance them funds to pay for their time. Plaintiffs and their police association ceased paying fees to Gebhardt & Associates in 2004, with only minimal payments totaling approximately \$20,000 since then. Joseph D. Gebhardt, managing partner of the former firm, estimates that,

---

<sup>2</sup> Of the original 313 Plaintiffs in the suit, 22 have been dismissed voluntarily.

<sup>3</sup> Even if the Court accepts the initial and supplemental Reports and Recommendations of Magistrate Judge Facciola, and declines to certify a class, the case will still have more than 20 Plaintiffs, each with a somewhat different set of factual circumstances, an unwieldy number of Plaintiffs for sole practitioners without financial or logistical resources.

since the return of the mandate from the Court of Appeals, the firm and its attorneys have expended at least \$400,000 for this case which has not been paid. Continuing in this case would result in extreme financial hardship for the attorneys. Rule 1.16(b)(4) of the D.C. Rules of Professional Conduct permits withdrawal from a case where continuing representation would cause unreasonable financial hardship.

3. Undersigned counsel have sent notices to all of the Plaintiffs they represent, informing them of their intent to withdraw. Attached as Exhibit A are signed consents from eight of the Plaintiffs. Exhibit B is a spreadsheet of the names and addresses of the remaining Plaintiffs, who have been served with a copy of this Motion.<sup>4</sup> Enclosed with this Motion is a copy of

---

<sup>4</sup> Undersigned counsel believe the following Plaintiffs to be deceased:

Audrey Augustus  
Ronald Curtis  
Joe Deas  
George Gibson  
David Hamlett  
Clarence Jeter, Jr.  
Naudain Jones, Jr.  
Robert Lumpkin  
Lloyd Rudd  
Gregory Rush  
Kado Wilks

Mailings addressed to Plaintiffs Gibson, Jeter, Jones, and Lumpkin were returned to sender from their last known addresses. The remainder are being served at their last known addresses so

the Court's Minute Order of May 12, 2015, setting a status conference in this matter for June 12, 2015.

4. Defendant does not oppose this Motion.

Wherefore, for the reasons stated above, undersigned counsel respectfully pray that this Court permit their withdrawal from this case.

Respectfully submitted,

/s/Lenore C. Garon

LENORE C. GARON

D.C. Bar No. 172205

Law Office of Lenore C. Garon,  
PLLC

2412 Falls Place Court

Falls Church, VA 22043

(703) 534-6662

(703) 534-4448 (fax)

lenore@lenorecgaron.com

/s/ Valencia R. Rainey

VALENCIA R. RAINEY

D.C. Bar No. 435254

355 I Street, S.W.

Unit 608 South

Washington, DC 20024

(301) 928-4939

vrrainey@gmail.com

/s/Charles W. Day, Jr.

CHARLES W. DAY, JR.

D.C. Bar No. 459820

The Day Law Practice LLC

103 North Adams Street

Suite 203

Rockville, MD 20850

(301) 762-2675

---

that any interested heirs will be informed. Additionally, no address could be found for Plaintiff Paul Proctor.

(240) 238-9774 (fax)  
billday@daylawpractice.com

/s/Daniel K. Gebhardt  
DANIEL K. GEBHARDT  
D.C. Bar No. 975703  
10207 Tenbrook Drive  
Silver Spring, MD 20902  
(202) 701-7887  
dan.gebhardt@yahoo.com

/s/ Joseph D. Gebhardt  
JOSEPH D. GEBHARDT  
D.C. Bar No. 113894  
5904 Osceola Road  
Bethesda, Maryland 20816  
202-295-7340  
gebhardtj@vzw.blackberry.net

May 27, 2015

Counsel for Plaintiffs