

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS

_____)	Chapter 11 Cases
In re)	
)	14-40987-MSH
TELEXFREE, LLC)	14-40988-MSH
TELEXFREE, INC. and)	14-40989-MSH
TELEXFREE FINANCIAL, INC.)	
)	Jointly Administered
Debtors.)	
_____)	
STEPHEN B. DARR,)	
CHAPTER 11 TRUSTEE OF)	
EACH OF THE DEBTORS,)	Adversary Proceeding
)	No. 16-04033
Plaintiff,)	
)	
v.)	
)	
INFINIUM WIRELESS, LLC)	
)	
Defendant.)	
_____)	

**MOTION OF JAGER SMITH P.C. TO WITHDRAW AS COUNSEL
FOR INFINIUM WIRELESS, LLC**

[UNOPPOSED]

Jager Smith P.C. (the “Firm”) counsel for defendant Infinium Wireless, LLC (“Infinium”) in this adversary proceeding¹ hereby moves for an order of this Court granting the Firm and its attorneys that have limited appearances in this proceeding leave to withdraw as counsel to Infinium

¹ The Firm and its attorneys only entered limited appearances in this adversary proceeding solely with respect to filing motions seeking an extension of the time to answer to allow for settlement discussions and is filing this motion to withdraw out of an abundance of caution.

pursuant to Rule 9010-3 of the Local Rules of the United States Bankruptcy Court for the District of Massachusetts.

In support of this motion, the Firm respectfully states as follows:

1. The undersigned represents that Infinium consents to the withdrawal.
2. The Firm has represented Infinium in this proceeding on a limited basis solely with respect to filing motions seeking an extension of the time to answer to allow for settlement discussions.
3. On December 19, 2016, the Court approved the settlement entered into between the Trustee and Infinium.
4. The Firm has advised Infinium that the Firm will cease practicing law on December 31, 2016.
5. On December 21, 2016 the Firm wrote to Infinium and its principal Todd Betlejewski informing them of the foregoing, and advising Infinium and Mr. Betlejewski of the Firm's intention to move to withdraw as his counsel, having fully accomplished its objectives. In that correspondence, the Firm inquired whether Infinium had any objection to the Firm withdrawing, and Infinium terminated the Firm's representation and consented to the withdrawal.
6. The Massachusetts Rules of Professional Conduct provide that: "Except as stated in paragraph (c), a lawyer shall not represent a client, or where representation has commenced, shall withdraw from the representation of a client if: ... (3) the lawyer is discharged." Massachusetts Rules of Professional Conduct R. 1.16(a). Jager Smith and its attorneys have been discharged by Infinium and are prohibited from representing Infinium as a result of their discharge.
7. The Massachusetts Rules of Professional Conduct provide that: "Except as stated in paragraph (c), a lawyer may withdraw from representing a client if: (1) withdrawal can be

accomplished without material adverse effect on the interests of the client[.]” Massachusetts Rules of Professional Conduct R. 1.16(b). The Firm has achieved the objective for which Infinium retained it. Under the circumstances, the Court should grant the Firm leave to withdraw as Infinium’s counsel, as allowing it to withdraw will have no material effect on Infinium’s interests in this case.

8. For the foregoing reasons, the Court should grant the Firm and its attorneys leave to withdraw as counsel to Infinium.

WHEREFORE, the Firm respectfully requests that this Court enter an order granting this motion in its entirety.

Date: December 21, 2016

INFINIUM WIRELESS, LLC.

By its counsel,

/s/ Timothy J. Durken

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Timothy J. Durken (BBO No. 666720)
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MLBR 9013-1 CERTIFICATION

On December 21, 2016, counsel for Infinium communicated by telephone with Andrew G. Lizotte of Murphy & King, P.C., counsel to the Trustee in this matter, who indicated that he did not oppose the within motion or the relief sought herein.

/s/ Timothy J. Durken

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CERTIFICATE OF SERVICE

I hereby certify that on the 21st day of December, 2016, I caused true copies of the within motion to be served through the Court's CM/ECF system upon all registered electronic filers appearing in this case and upon Infinium by first class, prepaid U.S. mail at the following address:

Infinium Wireless, LLC
9881 Irvine Center Drive, Suite 200
Irvine, California 92618

/s/ Timothy J. Durken

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