

**Solow Management Corp. v Tanger**

2005 NY Slip Op 30041(U)

October 5, 2005

Supreme Court, New York County

Docket Number: 0004044/4044

Judge: Robert D. Lippmann

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SUPREME COURT OF THE STATE OF NEW YORK – NEW YORK COUNTY

PRESENT: ROBERT D. LIPPMANN PART 21

Justice

SOLOW MANAGEMENT CORP.,

Plaintiff,

- v -

STEVEN TANGER and DEBRA TANGER

Defendant.

INDEX NO 004044/91

MOTION DATE \_\_\_\_\_

MOTION SEQ. NO. 10

MOTION CAL. NO. \_\_\_\_\_

The following papers, numbered 1 to \_\_\_\_\_ were read on this motion to/for \_\_\_\_\_

Notice of Motion/ Order to Show Cause — Affidavits — Exhibits \_\_\_\_\_

Answering Affidavits — Exhibits \_\_\_\_\_

Replying Affidavits \_\_\_\_\_

Cross-Motion: [ ] Yes [  ] No

PAPERS NUMBERED  
**FILED**  
OCT 13 2005  
NEW YORK  
COUNTY CLERK'S OFFICE

Upon the foregoing papers, Alfred Ferrer of Eaton & Van Winkle seeks to be relieved as counsel for defendants on the grounds that the defendants refused to pay outstanding legal fees and to enter into a retainer agreement for future legal services. Counsel claims that defendants are indebted to the firm in excess of \$170,000.

The defendants oppose the motion, arguing that the instant protracted litigation has proceeded for approximately 14 years and that to allow counsel to withdraw now is prejudicial and would create a hardship.

The Petition to be relieved is granted. While counsel to defendants focuses his arguments on lack of payment, the record also indicates a clear breakdown in the attorney-client relationship. Specifically,

e-mail and other correspondence between defendants and their counsel evinces animus and mistrust, with petitioner and defendants each threatening to sue the other. Correspondence from the defendants to their counsel also shows a lack of trust in the legal representation that they were receiving. Indeed, the defendants hired outside counsel to monitor, in part, the actions of petitioner.

A lawyer may withdraw from representing a client if the client “renders it unreasonably difficult” for the lawyer to carry out employment effectively (Code of Professional Responsibility DR2-110 [e][1][iv] [22NYCRR 1200.15]). In light of the foregoing facts, the court grants petitioner’s request to withdraw as counsel to the defendants (see 22 NYCRR 1200.15 [c][1][iv] and [vi]; McCormack v Kamalian, 10 AD3d 679 [2<sup>nd</sup> Dept 2004]; see also Dillon v Otis, \_\_\_ AD3d \_\_\_, 800 NYS2d 385, 387-88 [1<sup>st</sup> Dept 2005]). Moreover, with the defendants having repudiated a fee arrangement for future legal services, there is no obligation on counsel to continue to finance future litigation or render gratuitous legal services (see Holmes v YJA Realty Corp., 128 AD2d 482 [1<sup>st</sup> Dept 1987]).

Accordingly, it is

ORDERED, the motion to be relieved as counsel to defendants is granted to the extent that the defendants have ten days from service of this order with notice of entry but no later than November 7, 2005, to enter into a retainer agreement with petitioner, and a payment plan to settle the alleged outstanding debt, and it is further

ORDERED, that in the event defendants opt against settling the alleged debt with petitioner, all proceedings in this action are stayed until December 8, 2005, at which time all parties are to appear before the court at 9:30 AM in Room 284 of 80 Centre Street, for a status conference; and it is further

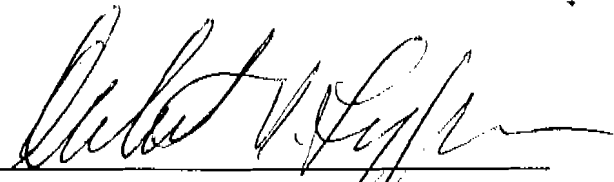
ORDERED, that petitioner is to serve a copy of this order with Notice of Entry upon defendants forthwith, by certified mail, return receipt requested, and by ordinary mail upon all parties in the related action.

ENTER:

**FILED**  
OCT 13 2005  
NEW YORK  
COUNTY CLERKS OFFICE

Dated: Oct 5, 2005  
OCT 09 2005

Check one:  FINAL DISPOSITION

  
ROBERT D. LIPPMANN, J.S.C.  
HON. ROBERT D. LIPPMANN  
 NON-FINAL DISPOSITION