

Sakamoto v 313 W. 4 LLC

2019 NY Slip Op 32843(U)

September 26, 2019

Supreme Court, New York County

Docket Number: 154261/2019

Judge: Kathryn E. Freed

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. KATHRYN E. FREED PART IAS MOTION 2EFM

Justice

INDEX NO. 154261/2019

RYUICHI SAKAMOTO,

Plaintiff,

MOTION SEQ. NO. 001, 002

- v -

313 WEST 4 LLC, DAVID SLAVIN, MAND RESTORATION CORPORATION, RICHARD MAND, DESIGN DEVELOPMENT NYC, INC, MICHAEL DADDIO, STONE CORE & SHELL LLC, DOUGLAS MANOWITZ, MFS CONSULTING ENGINEERS & SURVEYOR, DPC, MFS CONSULTING ENGINEERS CORP., MFS CONSULTING ENGINEERS, LLC D/B/A MFS CONSULTING ENGINEERS & SURVEYORS, SPG ARCHITECTS, ROBERT SILMAN ASSOCIATES, CARLIN-SIMPSON & ASSOCIATES, and XYZ CORPS 1-10,

DECISION + ORDER ON MOTION

Defendants.

The following e-filed documents, listed by NYSCEF document number (Motion 001) 19, 20, 21, 25, 27, 29

were read on this motion to/for PRO HAC VICE

The following e-filed documents, listed by NYSCEF document number (Motion 002) 14, 15, 16, 17, 18, 26, 28, 30

were read on this motion to/for PRO HAC VICE

Motion sequence numbers 001 and 002 are hereby consolidated for disposition.

In this action by plaintiff Ryuichi Sakamoto seeking damages allegedly arising from negligently performed construction, defendants MFS Consulting Engineers & Surveyor, PC, MFS Consulting Engineers Corp., and MFS Consulting Engineers, LLC d/b/a MFS Consulting Engineers & Surveyor (collectively "MFS") move, pursuant to § 520.11 of the Rules of the Court of Appeals and § 602.2(a) of the Rules of the Appellate Division, First Department, to admit

Christopher S. Kwelty, Esq. (motion sequence 001) and Daniel R. Guadalupe, Esq. (motion sequence 002) pro hac vice so that they can represent MFS in this action.

Pursuant to section 22 NYCRR 520.11 (a)(1) of the Rules of the Court of Appeals, “[a]n attorney and counselor-at-law or the equivalent who is a member in good standing of the bar of another state, territory, district or foreign country may be admitted pro hac vice: (1) in the discretion of any court of record, to participate in any matter in which the attorney is employed or (2) in the discretion of the Appellate Division.” Section 22 NYCRR 520.11 (d) provides that an attorney admitted pro hac vice “(1) shall be familiar with and shall comply with the standards of professional conduct imposed upon members of the New York bar, including the rules of court governing the conduct of attorneys and the Disciplinary Rules of the Code of Professional Responsibility; and (2) shall be subject to the jurisdiction of the courts of this State with respect to any acts occurring during the course of the attorney’s participation in the matter. Section 22 NYCRR 602.2(a) of the Rules of the Appellate Division, First Department provides, inter alia, that an attorney from another state, territory district or foreign country, may be admitted pro hac vice to participate in the trial or argument of a particular cause in which the attorney may be employed, upon application to and in the discretion of the court in which the cause is pending.”

Here, MFS has established to this Court’s satisfaction that Christopher S. Kwelty, Esq., an attorney admitted in good standing to practice in the courts of the State of New Jersey, is familiar with, and shall comply with, the rules of professional conduct in New York and that he will be bound by them during the course of this proceeding. He also acknowledges that he will be subject to this Court’s jurisdiction. Deanna L. Koestel, Esq., a member of the firm of Norris McLaughlin, P.A., and an attorney admitted to practice in New York State, indicates in an affirmation in support of motion sequence 001 that Mr. Kwelty assists Daniel R. Guadalupe, Esq., outside general counsel

for MFS, and thus has knowledge and experience which would be beneficial to MFS and further the interests of judicial economy. Ms. Koestel also represents that, if Mr. Kwelty is admitted pro hac vice, he will be associated with Norris McLaughlin and that she will remain attorney of record for MFS. Mr. Kwelty, who represents that he is familiar with the facts and proceedings in the captioned action, also annexes a copy of his Certificate of Good Standing from the State of New Jersey. Given the foregoing, as well as the fact that the application is unopposed, this Court grants MFS' motion (motion sequence 001) to have Mr. Kwelty admitted pro hac vice in this matter.

MFS has also established to this Court's satisfaction that Daniel R. Guadalupe, Esq., an attorney admitted in good standing to practice in the courts of the State of New Jersey, is familiar with, and shall comply with, the rules of professional conduct in this state and will be bound by them during the course of this proceeding. Mr. Guadalupe also acknowledges that he will be subject to this Court's jurisdiction. Ms. Koestel indicates in an affirmation in support of motion sequence 002 that Mr. Guadalupe is the outside general counsel for MFS and, as a result of acting in that role, his representation of MFS in this matter would be in the best interests of MFS as well as those of judicial economy. Ms. Koestel also represents that, if Mr. Kwelty is admitted pro hac vice, he will be associated with Norris McLaughlin and that she will remain attorney of record for MFS. Mr. Guadalupe, who states that he is familiar with the facts and proceedings in the captioned action, annexes a copy of his Certificate of Good Standing from the State of New Jersey. Given the facts above, as well as the fact that the motion is unopposed, MFS' application to have Mr. Guadalupe admitted pro hac vice in this matter is granted (motion sequence 002).

Therefore, in light of the foregoing, it is hereby:

ORDERED that motion sequence number 001 is granted, and Christopher S. Kwelty, Esq. is permitted to appear and to participate pro hac vice in this action on behalf of defendants MFS Consulting Engineers & Surveyor, PC, MFS Consulting Engineers Corp., and MFS Consulting Engineers, LLC d/b/a MFS Consulting Engineers & Surveyor; and it is further

ORDERED that Christopher S. Kwelty, Esq. shall at all times be associated herein with counsel Deanna L. Koestel, Esq., who is a member in good standing of the Bar of the State of New York and is an attorney of record for the party in question, and all pleadings, briefs and other papers filed with the Court shall be signed by the attorney of record who shall be held responsible for such papers and for the conduct of this action; and it is further

ORDERED that, pursuant to Section 520.11 of the Rules of the Court of Appeals and Section 602.2 of the Rules of the Appellate Division, First Department, the attorney hereby admitted pro hac vice, Christopher S. Kwelty, Esq., shall abide by the standards of professional conduct imposed upon members of the New York Bar, including the Rules of the Court governing the conduct of attorneys and the Disciplinary Rules of the Code of Professional Responsibility; and it is further

ORDERED that Christopher S. Kwelty, Esq. shall be subject to the jurisdiction of the courts of the State of New York with respect to any acts occurring during the course of his participation in this matter; and it is further

ORDERED that Christopher S. Kwelty, Esq. shall notify the Court immediately of any matter or event in this or any other jurisdiction which affects his standing as a member of the Bar; and it is further

ORDERED that motion sequence number 002 is granted, and Daniel R. Guadalupe, Esq. is permitted to appear and to participate pro hac vice in this action on behalf of defendants MFS Consulting Engineers & Surveyor, PC, MFS Consulting Engineers Corp., and MFS Consulting Engineers, LLC d/b/a MFS Consulting Engineers & Surveyor; and it is further

ORDERED that Daniel R. Guadalupe, Esq. shall at all times be associated herein with counsel Deanna L. Koestel, Esq., who is a member in good standing of the Bar of the State of New York and is an attorney of record for the party in question, and all pleadings, briefs and other papers filed with the Court shall be signed by the attorney of record who shall be held responsible for such papers and for the conduct of this action; and it is further


ORDERED that, pursuant to Section 520.11 of the Rules of the Court of Appeals and Section 602.2 of the Rules of the Appellate Division, First Department, the attorney hereby admitted pro hac vice, Daniel R. Guadalupe, Esq., shall abide by the standards of professional conduct imposed upon members of the New York Bar, including the Rules of the Court governing the conduct of attorneys and the Disciplinary Rules of the Code of Professional Responsibility; and it is further

ORDERED that Daniel R. Guadalupe, Esq. shall be subject to the jurisdiction of the courts of the State of New York with respect to any acts occurring during the course of his participation in this matter; and it is further

ORDERED that Daniel S. Guadalupe, Esq. shall notify the Court immediately of any matter or event in this or any other jurisdiction which affects his standing as a member of the Bar; and it is further

ORDERED that this constitutes the decision and order of the court.

9/26/2019
DATE


KATHRYN E. FREED, J.S.C.

CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION		
	<input checked="" type="checkbox"/>	GRANTED	<input type="checkbox"/>	DENIED	<input type="checkbox"/>	OTHER
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>	SUBMIT ORDER	<input type="checkbox"/>	REFERENCE
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input type="checkbox"/>	