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| <b>Jfurti, LLC v Verschleiser</b>                                                                                                                                                                                              |
| 2020 NY Slip Op 31837(U)                                                                                                                                                                                                       |
| June 12, 2020                                                                                                                                                                                                                  |
| Supreme Court, New York County                                                                                                                                                                                                 |
| Docket Number: 650803/2014                                                                                                                                                                                                     |
| Judge: Joel M. Cohen                                                                                                                                                                                                           |
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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. JOEL M. COHEN **PART** **IAS MOTION 3EFM**

*Justice*

-----X

JFURTI, LLC,SUMMER INVESTORS, LLC,WINTER 866  
UN LLC,JACOB FRYDMAN

Plaintiffs,

- v -

ELI VERSCHLEISER, EVURTI, LLC,EVE, LLC,EVUNP  
HOLDINGS LLC,

Defendants.

-----X

The following e-filed documents, listed by NYSCEF document number (Motion 013) 388, 389, 390, 393, 394

were read on this motion to/for

ATTORNEY -

In Motion Sequence Number 013, Plaintiffs' counsel, Daniel Edelman, Esq., seeks to withdraw as counsel. He asserts that withdrawal is warranted because "Plaintiffs have discharged [his] services as counsel" and "communications with Plaintiffs ha[ve] become strained" (NYSCEF 389 [Edelman aff]). Edelman asserts that "a stay is required so that [he] will not have to perform any further legal services and to prevent any prejudice to Plaintiffs" (*id.* ¶¶ 6-8).

Defendants' oppose this motion to the extent that a stay is requested and seek to have Edelman continue as Plaintiffs' counsel until a summary judgment motion, pending in the related *EVUNP Holdings, LLC* action (650841/2014) ("Related Action"), has been decided. Edelman's motion to withdraw in the Related Action addresses those issues which are not relevant in this action (*see* NYSCEF 384 [granting a stay of this action pending the resolution of trial in a related federal case]).

The motion to withdraw as counsel is granted subject to the conditions set out below. Generally, a client has an “unqualified right to terminate the attorney-client relationship at any time without any obligation other than to compensate the attorney for “the fair and reasonable value of the completed services” (*e.g. Matter of Thelen LLP*, 24 NY3d 16, 28 [2014]). Nothing in this record suggests that Edelman has not been paid for his services to date. Further, counsel is required to withdraw its representation upon termination by the client under Rule 1.16 (b) of the Rules of Professional Conduct.

Plaintiff’s opposition to the request is irrelevant to this action given that the summary judgment motion discussed in its attorney’s affirmation in opposition concerns an entirely different case (the Related Action) and, here, there is already a stay in place. Under the circumstances, no party will be prejudiced by Edelman’s withdrawal and no stay of proceedings against Defendants is necessary.

In sum, the Court concludes that Edelman’s withdrawal is warranted, and his motion is granted. Edelman is directed to advise Plaintiffs that the entity Plaintiffs must retain counsel to continue this litigation (*see* CPLR § 321 [a]). Additionally, any individual Plaintiffs must either retain new counsel or register their appearance(s) *pro se*. Edelman is also directed to comply with his obligations under Rule 1.16(e) of the Rules of Professional Conduct, as stated below.

\* \* \* \* \*

Accordingly, it is

**ORDERED** that Edelman’s motion to be relieved as counsel for Plaintiffs is **granted**, subject to the following conditions; it is further

**ORDERED** that Edelman shall comply with all obligations under Rule 1.16 (d) of the Rules of Professional Conduct, as applicable to the facts presented, to “take steps, to the extent

reasonably practicable, to avoid foreseeable prejudice to the rights of the clients, including giving reasonable notice to the clients, . . . delivering to the clients all papers and property to which the clients are entitled, promptly refunding any part of a fee paid in advance that has not been earned and complying with applicable laws and rules.”; it is further

**ORDERED** that, within 5 days from the Court’s entry of this Order on NYSCEF, Edelman shall serve a copy of this Order with notice of entry upon Plaintiffs by email and, if practicable, by hard copy at their last known address by certified mail, return receipt requested, as well as upon the attorneys for all other parties and any *pro se* parties appearing herein by posting to the New York State Courts Electronic Filing System; it is further

**ORDERED** that, together with the copy of this Order with notice of entry served upon the Plaintiffs, moving counsel shall forward a notice directing the Plaintiffs to appoint a substitute attorney (entity Plaintiffs) within 21 days of such notice (*see* CPLR 321). If any individually named Plaintiff elects to proceed in this matter *pro se*, that individual must advise the Court of such a decision and register their appearance on NYSCEF within 30 days of moving counsel’s notice; it is further

**ORDERED** that any new attorney retained by Plaintiffs shall file a notice of appearance within 21 days from the date the notice to retain new counsel is sent; it is further

**ORDERED** that outgoing counsel shall, within 5 days from the Court’s entry of this Order on NYSCEF, serve a copy of this Order with notice of entry upon the Clerk of the General Clerk’s Office (Room 119); it is further

**ORDERED** that such service upon the Clerk of the General Clerk’s Office, the filing of a notice of appearance as provided herein, and the filing of papers as aforesaid shall be made in accordance with the procedures set forth in the *Protocol on Courthouse and County Clerk*

*Procedures for Electronically Filed Cases* (accessible at the “E-Filing” page on the Court’s website at the address [www.nycourts.gov/supctmanh](http://www.nycourts.gov/supctmanh)); and it is further

**ORDERED** that all parties are to advise the Court as to the status of the federal action by joint letter not later than **July 28, 2020 at 11:00 a.m.**

This Constitutes the Decision and Order of the Court.

6/12/2020

DATE

CHECK ONE:

☐

CASE DISPOSED

☒

GRANTED

☐

DENIED

APPLICATION:

☐

SETTLE ORDER

CHECK IF APPROPRIATE:

☐

INCLUDES TRANSFER/REASSIGN

☒

NON-FINAL DISPOSITION

☐

GRANTED IN PART

☐

OTHER

☐

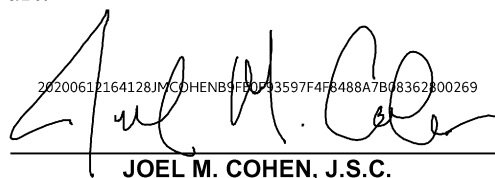
SUBMIT ORDER

☐

FIDUCIARY APPOINTMENT

☐

REFERENCE

20200612164128JMCCHENB9F0093597F4F8488A7B08362800269  
  
 JOEL M. COHEN, J.S.C.