

Rutigliano v Locantro
2021 NY Slip Op 30689(U)
March 1, 2021
Supreme Court, New York County
Docket Number: 654118/2015
Judge: Joel M. Cohen
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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: COMMERCIAL DIVISION PART IAS MOTION 3EFM

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JOSEPH RUTIGLIANO,

Plaintiff,

- v -

WILLIAM LOCANTRO, ROBERT ROMANOFF, EDM
ELECTRICAL CONTRACTORS, INC., BRAVO SALES
GROUP, INC., JOHN DOES 1 THROUGH 10, ABC
CORPORATIONS 1 THROUGH 10,

Defendants.

INDEX NO. 654118/2015

MOTION DATE N/A, N/A

MOTION SEQ. NO. 010 011

**DECISION + ORDER ON
MOTION**

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ABSOLUTE ELECTRICAL CONTRACTING OF NY INC.,
WILLIAM LOCANTRO, ROBERT ROMANOFF

Plaintiffs,

-against-

JOSEPH RUTIGLIANO,

Defendant.

DECISION/ORDER
Index No. 654425/2017
(Action #1)

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HON. JOEL M. COHEN:

The following e-filed documents, listed by NYSCEF document number (Motion 010) 373, 374, 375, 376, 377, 378, 379, 380, 381, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 400, 401, 402, 408, 410

were read on this motion for ATTORNEY WITHDRAWAL.

The following e-filed documents, listed by NYSCEF document number (Motion 011) 403, 404, 405, 406, 407, 409, 411

were read on this motion to SEAL.

In Motion Sequence Number 10, Levitt LLP (“Levitt”) seeks to withdraw as counsel for William Locantro, Robert Romanoff, and EDM Electrical Contractors, Inc. (“EDM”) (collectively, the “Defendants”). Levitt, through one of its attorneys, Irene Tenedios, Esq., seeks to terminate its representation due to the death of EDM’s President (*see* NYSCEF Doc. No. 374

["Tenedios December Affidavit"] at ¶¶ 6 - 8), and Defendants' failure to pay Levitt's invoices (see NYSCEF Doc. No. 400 ["Tenedios January Affidavit"] at ¶¶ 13 -18).

An attorney may withdraw as counsel upon a showing of good and sufficient cause and reasonable notice (NY CPLR § 321:2). Further, an attorney may withdraw from representation where the client "deliberately disregards an agreement or obligation to the lawyer as to expenses or fees" (NYCRR 1.16 [c][5]; see also *Weiss v Spitzer*, 26 AD3d 675 [1st Dept 2007] [permitting attorney to withdraw where client was almost \$4,000 in arrears]; *Winters v Winters*, 25 AD3d 601, 601 [2d Dept 2006] [holding that an attorney may withdraw where the client "refuses to pay reasonable legal fees"]).

The Court concludes that Levitt has made a sufficient showing of entitlement to withdraw as counsel for Defendants and its motion is **Granted**.

In Motion Sequence Number 11, Levitt seeks to seal certain documents submitted in support of its Motion to Withdraw as Counsel to Defendants. Levitt bases its motion on N.Y. Rule 1.16(e), seeking to avoid any prejudice to its now-former clients by redacting certain reasoning for its Motion to Withdraw (non-payment of fees).

The Appellate Division has emphasized that "there is a broad presumption that the public is entitled to access to judicial proceedings and court records" (*Mosallem v Berenson*, 76 AD3d 345, 348 [1st Dept 2010]). "Since the right [of public access to court proceedings] is of constitutional dimension, any order denying access must be narrowly tailored to serve compelling objectives, such as a need for secrecy that outweighs the public's right to access" (*Danco Labs., Ltd. v Chemical Works of Gedeon Richter, Ltd.*, 274 AD2d 1, 6 [1st Dept 2000] [emphasis added]; see also, e.g. *Gryphon Dom. VI, LLC v APP Intern. Fin. Co., B.V.*, 28 AD3d 322, 324 [1st Dept 2006]).

The desire to prevent the dissemination of information, that might be embarrassing to a party or might damage a party's reputation, is not sufficient grounds for sealing (*see Matter of Benkert*, 288 AD2d 147, 147 [1st Dept 2001]). Here, having reviewed Levitt's submissions, the Court determines that there are no sufficient reasons to seal the documents filed in support of Levitt's Motion to Withdraw as Counsel to Defendants, apart from the redacted descriptions of legal work done in Levitt's invoices (NYSCEF Doc. Nos. 401, 407). Levitt's Motion to Seal is **Granted in Part**, allowing the redaction of task descriptions in Levitt's invoices, and is otherwise **Denied**.

Accordingly, it is therefore:

ORDERED that the motion of Levitt to be relieved as counsel for Defendants in this action is **Granted**, subject to the following conditions; it is further

ORDERED that Levitt is to comply with its 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, allowing time for employment of other counsel, 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, Levitt shall promptly serve a copy of this order upon Defendants by email, and, if practicable, by hard copy at their last known home and business addresses by certified mail, return receipt requested; it is further

ORDERED that EDM shall appoint substitute counsel by **March 31, 2021**; it is further

ORDERED that Defendants William Locantro and Robert Romanoff either appoint substitute counsel or advise the Court of their intention to proceed in this matter *pro se*, on or before **March 31, 2021**; it is further

ORDERED that no further proceedings may be taken against Defendants without leave of Court in this matter until **March 31, 2021**; it is further

ORDERED that Levitt’s Motion to Seal is **Granted in Part** and **Denied in Part**. The descriptions of the legal tasks performed in Levitt’s Invoices, NYSCEF Doc. Nos. 401 and 407 will remain redacted; it is further

ORDERED that Levitt shall file on NYSCEF the *unredacted* and *unsealed* versions of NYSCEF Doc. Nos. 400 and 401 within one week of this Order; it is further

ORDERED that nothing in this Order shall be construed as authorizing the sealing or redactions of any documents or evidence to be offered at trial; and it is

ORDERED that all parties are to appear for a Status Conference, via teleconference (dial-in number to be provided by Plaintiff to Defendants and the Court) on **April 6, 2021 at 4:30 p.m.**

This constitutes the decision and order of the Court.

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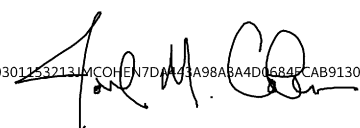
3/1/2021
DATE

CHECK ONE: CASE DISPOSED DENIED

APPLICATION: GRANTED SETTLE ORDER

CHECK IF APPROPRIATE: INCLUDES TRANSFER/REASSIGN

654118/2015 RUTIGLIANO, JOSEPH vs. LOCANTRO, WILLIAM
Motion No. 010 011



JOEL M. COHEN, J.S.C.

NON-FINAL DISPOSITION

GRANTED IN PART OTHER

SUBMIT ORDER

FIDUCIARY APPOINTMENT REFERENCE

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