

**Hill v Andrews**

2021 NY Slip Op 31036(U)

March 31, 2021

Supreme Court, New York County

Docket Number: 650598/2019

Judge: Louis L. Nock

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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. LOUIS L. NOCK PART IAS MOTION 38EFM**

*Justice*

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**INDEX NO. 650598/2019**

RAYMOND HILL,

**MOTION DATE 03/01/2021**

Plaintiff,

**MOTION SEQ. NO. 002**

- v -

PETER ANDREWS and WILK AUSLANDER LLP,

**DECISION + ORDER ON  
MOTION**

Defendants.

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LOUIS L. NOCK, J.

The following e-filed documents, listed by NYSCEF document numbers (Motion 002) 61, 62, 63, 64, 65, 66, 67, 68

were read on this motion to WITHDRAW.

Upon the foregoing documents, and after oral argument on the record this day, it is determined that the motion by counsel for defendant Peter Andrews to withdraw as counsel in this matter is granted per the relevant matters which the court takes note of in the aftermath of today's argument on the record.

The Rules of Professional Conduct provide that an attorney may withdraw from representing a client where there is good cause for the withdrawal (*see*, Rules of Professional Conduct (22 NYCRR 1200.0 rule 1.16 [c])). Among the sanctioned bases for withdrawal are where there are irreconcilable differences between the attorney and the client, as well as fee payment issues between them (*see, e.g., Misk-Falkoff v Metropolitan Tr. Auth.*, 65 AD3d 576 [2d Dept 2009]; *Walker v Mount Vernon Hosp.*, 5 AD3d 590 [2d Dept 2004]).

Today's record leaves no doubt that both grounds exist in this case. The client – defendant Peter Andrews – appeared today and addressed the record in connection with his counsel's motion. He himself employed the phrase "irreconcilable differences" when describing

the current state of his relationship with his counsel, and also employed the term “disagreement” multiple times during his recitation of the historical nature of his relationship with his counsel. Mr. Andrews’ candid acknowledgment of difficulties between himself and his counsel spilled over into the issue of fees, as well, noting that he and his counsel harbored differing views regarding what was owed by him and how any fee payments by him in the past ought to have been allocated by his counsel among several cases in which his counsel represents (or represented) him, including this one.

At the conclusion of Mr. Andrews’ presentation, he was resolved to a grant of the motion, but with the caveat that he be afforded some time to conclude his search for new counsel, recommending a 30-day period.

The motion is opposed by plaintiff’s counsel on grounds which focus primarily on the time element of any stay which this court might impose in facilitation of Mr. Andrews’ continuing search for new counsel (*see generally*, NYSCEF Doc. No. 63 [Letter of Plaintiff’s Counsel to the Court dated February 26, 2021]). Plaintiff’s counsel, while preferring denial of the motion, alternatively requested a shorter stay period – ten days – and imposition of a condition that Mr. Andrews pay the money obligation ordered in this court’s summary judgment decision and order dated December 8, 2020 (NYSCEF Doc. No. 56). However, no provision of law requires this court to impose such a condition in the context of what is, by all accounts, a simple motion for withdrawal on attorney/client relationship and fee payment grounds such as this. Moreover, plaintiff already enjoys the ability to pursue payment from Mr. Andrews consistent with the court’s summary judgment decision and order. Plaintiff’s right to collect on its monetary rights are wholly distinct of movant’s right to seek withdrawal and Mr. Andrews’ right to ask this court for a time accommodation as to substitute counsel.

This court noted on the record today that in the aftermath of the summary judgment decision and order, all that remains in this action, really, is to conduct a plaintiff's attorneys' fee inquest per that decision and order. No substantive issues remain to be litigated in this case. The court is not persuaded that any undue prejudice would befall plaintiff were this court to grant the motion and afford Mr. Andrews a reasonable period of time to continue his search for new counsel, especially in the wake of the favorable outcome for plaintiff occasioned by the court's grant of his motion for summary judgment. The fact that a pending appeal and cross-appeal of that summary judgment decision and order currently exists does not affect the analysis.

Accordingly, it is

ORDERED that the motion by The Wagoner Firm, PLLC (150 State Street, Suite 504, Albany, New York 12207), to withdraw as counsel for defendant Peter Andrews in this action is granted; and it is further

ORDERED that the remaining portion of this action is hereby stayed for a period of 30 days from the date of filing hereof to enable defendant Peter Andrews to continue his search for new counsel; and it is further

ORDERED that a plaintiff's attorneys' fee inquest will occur on June 3, 2021, at 2:15 p.m., via remote conferencing to be arranged by the court at which defendant Peter Andrews or his new counsel, if any, will be expected to attend.

This will constitute the decision and order of the court.

ENTER:

*Louis L. Nock*

3/31/2021

DATE

LOUIS L. NOCK, J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE