

Ecoline Inc. v RC Dolner LLC
2022 NY Slip Op 33511(U)
October 14, 2022
Supreme Court, New York County
Docket Number: Index No. 655995/2018
Judge: Debra A. James
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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. DEBRA JAMES PART 59

Justice

-----X

ECOLINE INC. a/k/a ECOLINE INSULATION CONTRACTORS,

Plaintiff,

INDEX NO. 655995/2018

MOTION DATE 05/05/2022

MOTION SEQ. NO. 001

- v -

RC DOLNER LLC, and MILLER MECHANICAL SYSTEMS LLC

Defendants.

DECISION + ORDER ON MOTION

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23

were read on this motion to/for ATTORNEY - WITHDRAW

ORDER

Upon the foregoing documents, including proof of service of the papers on the herein motion, it is

ORDERED that the motion of Foley & Lardner LLP to be relieved as attorney for RC Dolner, LLC is granted upon the filing by movant of proof of compliance with the following conditions; and it is further

ORDERED that within ten (10) days from entry, Foley & Lardner LLP shall serve a copy of this order with notice of entry upon the former client, RC Dolner, LLC at their last known address by regular first class mail, and upon the attorneys for

all other parties appearing herein by posting on the New York State Court Electronic Filing System; and it is further

ORDERED that, together with the copy of the order with notice of entry served upon RC Dolner, LLC, Foley & Lardner LLP shall forward a notice directing RC Dolner, LLC, to appoint a substitute attorney within thirty (30) days after service of the notice and RC Dolner, LLC, shall comply therewith; and it is further

ORDERED that any new attorney retained by RC Dolner, LLC shall file a notice of appearance with the Clerk of the General Clerk's Office (60 Centre Street, Room 119) and the Clerk of the Part within forty (40) days from the date the notice to retain new counsel is mailed; and it is further

ORDERED that no further proceedings may be taken against the former client without leave of this court for a period of forty (40) days after service on the former client of the aforesaid notice to appoint a substitute attorney; and it is further

ORDERED that counsel are directed to post on NYSCEF a proposed discovery conference order or proposed competing discovery compliance conference order(s) at least two days before December 6, 2022, on which date counsel shall appear via Microsoft Teams, unless such appearance be waived by the Court; and it is further

ORDERED that the departing attorney shall, within fifteen (15) days from entry, serve a copy of this order with notice of

entry on the Clerk of the General Clerk's Office (Room 119); and 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).

DECISION

In this breach of contract action, counsel for defendant RC Dolner, LLC, Foley & Lardner LLP, seeks to withdraw as counsel pursuant to CPLR 321[b](2) and 22 NYCRR 1200. The motion is unopposed.

An attorney may move to be relieved as counsel of record upon a showing of good and sufficient cause, and reasonable notice to the client. (see CPLR 321[b](2); Mason v MTA N.Y. City Tr., 38 AD3d 258 [1st Dept 2007]). A client's failure to pay reasonable legal fees to its counsel constitutes good cause for the withdrawal of such attorney from representing such party. (see Winters v Winters, 25 AD3d 601 [2nd Dept 2006]). Foley & Lardner LLP assert that they are no longer authorized to defend this lawsuit or to appear on behalf of defendant, RC Dolner, LLC, as RC Dolner, LLC, has been dissolved without Foley &

Lardner LLP's knowledge or involvement, and RC Dolner, LCC has failed to remit payment for legal services rendered.

As set forth in the preliminary conference order, dated March 24, 2022, (NYSCEF Doc No. 12) Foley & Lardner LLP has made the request to be relieved as counsel for the defendant RC Dolner, LLC, by order to show cause and has established with proof in the form of a certificate of dissolution that RC Dolner, LLC, is a dissolved corporation (NYSCEF Doc No. 19). Accordingly, moving counsel is entitled to the relief sought.

Debra A. James

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<u>10/14/2022</u>				<u>DEBRA A. JAMES, J.S.C.</u>
DATE				
CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION
	<input checked="" type="checkbox"/>	GRANTED	<input type="checkbox"/>	GRANTED IN PART
			<input type="checkbox"/>	OTHER
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>	SUBMIT ORDER
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	FIDUCIARY APPOINTMENT
			<input type="checkbox"/>	REFERENCE