

**Rodriguez v Guion Place Renaissance Hous. Dev.
Fund Co., Inc.**

2023 NY Slip Op 32420(U)

July 18, 2023

Supreme Court, New York County

Docket Number: Index No. 160490/2022

Judge: Frank P. Nervo

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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. FRANK P. NERVO PART 04

Justice

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MIGUEL NIETO RODRIGUEZ,

Plaintiff,

INDEX NO. 160490/2022

MOTION DATE 06/09/2023

MOTION SEQ. NO. 001

- v -

THE GUION PLACE RENAISSANCE HOUSING
DEVELOPMENT FUND COMPANY, INC., THE NRP
GROUP LLC, KENSWORTH CONSULTING, LLC, THE
REMINGTON BOYS & GIRLS CLUB, BOYS & GIRLS CLUB
OF NEW ROCHELLE D/B/A THE REMINGTON BOYS &
GIRLS CLUB, TOUCHSTONE BUILDERS, INC.

**DECISION + ORDER ON
MOTION**

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 18, 19, 20, 21, 22, 23, 24, 25, 26, 27

were read on this motion to/for ATTORNEY -
DISQUALIFY/RELIEVE/SUBSTITUTE/WITHDRAW .

Plaintiff’s counsel moves to be relieved, on the basis that it cannot locate plaintiff. Of note, the Court directed that movant personally serve plaintiff with this application and movant has filed an affirmation of due diligence outlining its efforts to locate plaintiff and serve a copy of this motion upon him (NYSCEF Doc. No. 27). Nevertheless, plaintiff has not appeared on this motion.

A client is entitled to a stay following the withdrawal of their attorney when such withdrawal is granted over the client’s objection (*see generally* CPLR § 321). However, where withdrawal is predicated upon a client’s failure

to cooperate with counsel, the Court may, in its discretion decline to stay the matter (*Sarlo-Pinzur v. Pinzur*, 59 AD3d 607 [2d Dept 2007]). Here, plaintiff has neither appeared nor objected to the withdrawal and the withdrawal is predicated upon plaintiff's failure to cooperate with counsel by making himself available. Under the circumstances presented herein, the Court finds a stay of 30 days warranted.

Accordingly, it is

ORDERED that William Schwitzer & Associates, P.C. are relieved as counsel for plaintiff upon filing of proof of compliance with the following conditions; and it is further

ORDERED that, within 5 days from entry, movant shall serve a copy of this order with notice of entry upon the former client at its last known address by certified mail, return receipt requested, and upon the attorneys for all other parties appearing herein by posting to the New York State Courts Electronic Filing System; and it is further

ORDERED that within 5 days, together with the copy of this order with notice of entry served upon the former client, moving counsel shall forward a notice

directing the former client to appoint a substitute attorney within 60 days, or if plaintiff intends to proceed pro-se, directing plaintiff to advise the Part Clerk of Part IV and all opposing counsel of same within 60 days; and it is further

ORDERED that the departing attorney shall, within 5 days from entry, serve a copy of this order with notice of entry on the Clerk of the General Clerk's Office; 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); and it is further

ORDERED that any new attorney retained by petitioner shall file a notice of appearance with the Clerk of the General Clerk's Office and the Clerk of the Part no later than August 21, 2023; and it is further

ORDERED that no further proceedings may be taken against the former client without leave of this court before August 21, 2023; and it is further


ORDERED that should these conditions herein remain unsatisfied, William Schwitzer & Associates, P.C. shall remain counsel of record for plaintiff; and it is further

ORDERED that a virtual conference is scheduled for August 22, 2023 at 11:30am, via Microsoft Teams; and it is further

ORDERED that incoming counsel for plaintiff, or plaintiff pro-se, shall contact the Clerk of Part IV no later than August 21, 2023 to receive a link to the Microsoft Teams conference; and it is further

ORDERED that failure to appear at the August 22, 2023 conference may result in dismissal of the action or other sanction, in the Court's discretion.

THIS CONSTITUTES THE DECISION AND ORDER OF THE COURT

7/18/2023 DATE				
CHECK ONE:	<input type="checkbox"/> CASE DISPOSED	<input checked="" type="checkbox"/> NON-FINAL DISPOSITION	HON. FRANK P. NERVO	
APPLICATION:	<input checked="" type="checkbox"/> GRANTED	<input type="checkbox"/> DENIED	<input type="checkbox"/> GRANTED IN PART	J.S.C.
CHECK IF APPROPRIATE:	<input type="checkbox"/> SETTLE ORDER	<input type="checkbox"/> SUBMIT ORDER	<input type="checkbox"/> OTHER	
	<input type="checkbox"/> INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/> FIDUCIARY APPOINTMENT	<input type="checkbox"/> REFERENCE	