

Shabat v Schnaier

2024 NY Slip Op 31789(U)

May 14, 2024

Supreme Court, New York County

Docket Number: Index No. 652778/2019

Judge: Debra A. James

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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. DEBRA A. JAMES

PART 59

Justice

-----X

TAMIR SHABAT,

Plaintiff,

- v -

JOE SCHNAIER, SYLVIE SCHNAIER, and JOSEPH COHEN,

Defendants.

-----X

INDEX NO. 652778/2019

MOTION DATE 05/14/2024

MOTION SEQ. NO. 006

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 006) 104, 105, 106, 107, 108

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

Upon the foregoing documents, it is

ORDERED that the motion of Joshua Wurtzel, Esq., of Schlam Stone & Dolan LLP, to be relieved as attorneys for defendants Joe Schnaier, Sylvie Schnaier and Joseph Cohen is granted, without opposition, upon filing of proof of compliance with the following conditions; and it is further

ORDERED that such outgoing attorney serve a copy of this order with notice of entry upon the former client at each of their last known addresses by regular first-class mail, and upon the attorneys for all other parties appearing herein by posting to the New York State Courts Electronic Filing (NYSCEF) System; and it is further

ORDERED that, 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 clients to appoint substitute attorney within thirty (30) days from the date of the mailing of the notice and the clients shall comply therewith, except that, in the event the defendant(s) intends instead to represent himself or herself, she and/or he shall

(1) notify the Clerk of the Part (SFC-Part59-Clerk@nycourts.gov) with cc: plaintiff's counsel of such decision in writing within such thirty (30)-day period; and

(2) click on https://ww2.nycourts.gov/courts/ljd/supctmanh/Help_Center.shtml and follow the prompts to add his and/or her name, e-mail address and physical address where he and/or she can be served papers to the E-File docket (and for technical e-Filing assistance, he and/or she may e-mail the link for assistance at the Help Center or call 646-386-3120);

ORDERED that any new attorney retained by any or all defendants file a notice of appearance with the Clerk of the General Clerk's Office 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 clients without leave of this court for a period of forty (40) days after service on the former clients of the aforesaid notice to appoint a substitute attorney; and it is further

ORDERED that the issue of the reasonable value of legal services rendered and disbursements to be paid to movant is severed and referred to the Special Referee Clerk for assignment to a

Special Referee to hear and report pursuant to the accompanying Order of Reference [see References] and, pending receipt of the report and a motion pursuant to CPLR 4403, final determination of that branch of the motion is held in abeyance; and it is further

ORDERED that counsel shall turn over the file pertaining to this case upon the fixing of the value of legal services and the payment thereof (Yaron v. Yaron, 58 A.D.2d 752) or the posting of a bond for the payment thereof; and it is further

ORDERED that counsel for the movant shall, within thirty (30) days from the date of this order, serve a copy of this order with notice of entry and the accompanying Order of Reference, together with a complete Information Sheet, upon the Special Referee Clerk in the General Clerk's Office, who is directed to place this matter on the calendar of the Special Referee's Part for the earliest convenient date subsequent to the conclusion of the stay fixed above; and it is further

ORDERED that such service upon the Special Referee Clerk, the filing of a notice of appearance as provided above with the Clerk of the General Clerk's Office, and service of documents on the Special Referee 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 is further

ORDERED that counsel and party representing themselves shall

appear for oral argument via Microsoft Teams of the motion pursuant to CPLR 4403 to affirm or disaffirm the Special Referee Report on the reasonable value of legal fees and disbursements incurred by defendants for services rendered by their former attorney on August 14, 11:00 AM; and is further

ORDERED that the preliminary discovery conference via Microsoft Teams, scheduled for May 14, 2024, is adjourned to a date to be set upon the determination of the motion to affirm or disaffirm the aforesaid Special Referee Report.

Debra A. James
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<u>5/14/2024</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"/>
		DENIED		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 checked="" type="checkbox"/>
				REFERENCE	