

iQuanti, Inc. v RTW Retailwinds Acquisition LLC

2024 NY Slip Op 32394(U)

July 2, 2024

Supreme Court, New York County

Docket Number: Index No. 654381/2022

Judge: Emily Morales-Minerva

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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. EMILY MORALES-MINERVA PART 42M

Justice

-----X

IQUANTI, INC.

Plaintiff,

- v -

RTW RETAILWINDS ACQUISTION LLC,

Defendant.

-----X

INDEX NO. 654381/2022

MOTION DATE 04/25/2024

MOTION SEQ. NO. 002

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 002) 52, 53, 54, 56, 57
were read on this motion to/for ATTORNEY -
DISQUALIFY/RELIEVE/SUBSTITUTE/WITHDRAW.

APPEARANCES:

Hubbell & Associates LLC, New York, New York (Richard A. Hubbell, Esq., of counsel) for plaintiff.

Shapiro and Associates, Attorneys at Law PLLC, New York, New York (Saadia Shapiro, Esq., of counsel) for defendant.

HON. EMILY MORALES-MINERVA:

In this matter, non-party Shapiro and Associates, Attorneys at Law PLLC, and Saadia Shapiro, Esq., of counsel for defendant RTW RETAILWINDS ACQUISTION LLC, filed their motion (sequence number 002), to withdraw as counsel for defendant, pursuant to CPLR §321(b)(2) (see NY St Elec Filing [NYSCEF] Doc. No. 52). Plaintiff, IQUANTI, INC., filed opposition to the motion, indicating the instant motion to withdraw was filed after plaintiff's unopposed motion for summary judgment, made

returnable on April 12, 2024 (see NY St Elec Filing [NYSCEF] Doc. No. 56). Plaintiff's opposition is conclusory, stating that defendant's motion to withdraw as counsel is a delay tactic (id. at ¶ 5).

For the reasons that follow, counsel for defendants' application to withdraw is granted.

An attorney may only withdraw as counsel upon a showing of good and sufficient cause and reasonable notice (see CPLR § 321[b][2]; see also Bok v Werner, 9 AD3d 318 [1st Dept 2004]). The question of whether such cause exists is a matter addressed to the Court's discretion (see Rivardeneria v New York City Health and Hosps. Corp., 306 AD2d 394 [2d Dept 2003]). If a client renders representation unreasonably difficult for an attorney to carry out employment effectively, an attorney is generally permitted to withdraw from representing a client (see Rules of Prof. Conduct [22 NYCRR 1200.0] rule 1.16 [c][7]; see Elias v Elias, 224 AD3d 500 [1st Dept 2024]; see also Raff & Becker LLP v Kaiser Saurborn & Mair, P.C., 160 AD3d 479 [1st Dept 2018]). Further, an attorney may be permitted to withdraw from representation where a client refuses to pay reasonable legal fees (see Rules of Prof. Conduct [22 NYCRR 1200.0] rule 1.16 [c][5]; see Holmes v Y.J.A. Realty Corp., 128 AD2d 482 [1st Dept 1987]).

Here, defendant's counsel has made a sufficient showing of good cause for withdrawal, affirming defendant's failure to communicate and cooperate with their representation, and defendant's failure to pay movants' legal fees.

Pursuant to CPLR § 321(c), an automatic stay of a matter shall be in effect for 30 days from entry of this decision and order. Such stay allows defendant an opportunity to retain new counsel or elect to proceed self-represented, if defendant is an individual, not a corporation (see CPLR § 321[c]). Additionally, defendant is afforded 30 days from new counsels' appearance (or defendant's notification that they will be proceeding as self-represented) to file opposition to the pending summary judgment motion (sequence number 001).

Accordingly, it is

ORDERED that the motion (sequence number 002), to withdraw as counsel is granted; it is further

ORDERED that Shapiro and Associates, Attorneys at Law PLLC, and Saadia Shapiro, Esq., counsel of record for defendant, are relieved as counsel; it is further

ORDERED that Shapiro and Associates, Attorneys at Law PLLC, and Saadia Shapiro, Esq., shall serve a copy of this order with notice of entry upon all parties, including defendant RTW

RETAILWINDS ACQUISTION LLC, within 10 days of entry; it is further

ORDERED that this action is stayed for a period of 30 days from the notice of entry; it is further

ORDERED that defendant is directed to notify the Court and all counsel in writing, within the 30-day period, as to new counsel's name and address, if any, or defendants' election to proceed as self-represented; it is further

ORDERED that defendant shall have 30 days from the entry of appearance of substitute counsel (or from the day that they notify the court that they intend to proceed as self-represented) to file papers in response to plaintiff's pending motion for summary judgment (sequence number 001).

THIS CONSTITUTES THE DECISION AND ORDER OF THE COURT

7/02/2024
DATE

Emily Morales-Minerva
EMILY MORALES-MINERVA, J.S.C.

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"/>	SETTLE ORDER	<input type="checkbox"/>	OTHER
APPLICATION:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	REFERENCE
CHECK IF APPROPRIATE:	<input type="checkbox"/>		<input type="checkbox"/>	