

Paramount Mgt. Group, LLC v Tareb

2025 NY Slip Op 30353(U)

January 17, 2025

Supreme Court, New York County

Docket Number: Index No. 653218/2021

Judge: Emily Morales-Minerva

Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op 30001(U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.

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

INDEX NO. 653218/2021

PARAMOUNT MANAGEMENT GROUP, LLC,

MOTION DATE 10/23/2024

Plaintiff,

MOTION SEQ. NO. 011

- v -

FARWAZ TAREB, WAFAZ CORP.,

**DECISION + ORDER ON
MOTION**

Defendants.

-----X

The following e-filed documents, listed by NYSCEF document number (Motion 011) 317, 318, 319, 320, 321

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

APPEARANCES:

Sipsas, P.C., Queens, New York (Ioannis Sipsas, Esq., of counsel), for defendants.

EMILY MORALES-MINERVA, J.S.C.

In this action, non-party Sipsas, P.C. (counsel), moves, by notice of motion (seq. no. 011), for, among other things, an order, pursuant to CPLR § 321 (b), permitting counsel to withdraw from representing defendants FARWAZ TAREB and WAFAZ CORP. Neither plaintiff nor defendants appear or submit opposition.

For the reasons set forth below, the application is dismissed without prejudice.

"An attorney of record may withdraw . . . by order of the court in which the action is pending, upon motion on such notice to [a] the client of the withdrawing attorney, to [b] the attorneys of all other parties in the action or, [c] if a party appears without an attorney, to any other person, as the court may direct" (CPLR § 321 [b] [2]).

Where counsel moves to be relieved, by regular motion, as here, counsel shall serve the interlocutory papers, pursuant to CPLR 2103. Rule 2103 (c) explicitly governs service of papers on a party "[i]f a party has not appeared by an attorney or the party's attorney cannot be served." In such circumstances, "service shall be upon the party by a method specified" in CPLR 2103 (b) (1), (2), (4), (5) or (6).

These subdivisions of CPLR 2103 (b) -- when read in tandem with Rule 2103 (c) -- provide as follows:

"Except where otherwise prescribed by law or order of court, papers to be served upon a party in a pending action shall be served:

"1. by delivering the paper to the [party] personally; or

"2. by mailing the paper to the [party] at the address designated by that [party] for that purpose or, if none is designated, at the [party's] last known address;

"4. by leaving it at the [party's] residence within the state with a person of suitable age and discretion. Service upon [a party] shall not be made at the [party's] residence unless service at the [party's] office cannot be made . . . ;

"5. by transmitting the paper to the [party] by facsimile transmission, provided that a facsimile telephone number is designated by the [party] for that purpose . . . ; or

"6. by dispatching the paper to the [party] by overnight delivery service at the address designated by the [party] for that purpose or, if none is designated, at the [party's] last known address. . . ."

(CPLR 2103 [b]).

Further, regarding parties who are corporations, "[t]he secretary of state shall be the agent . . . upon whom the corporation may be served" (Business Corp. Law § 304 [a] ["Statutory designation of secretary of state as agent for service of process]; see also CPLR 2103 [b] [2] and [c] [together providing that, where counsel for a party cannot be served, service shall be "by mailing the paper to the [party] at the address designated by that [party] for that purpose"])).

Further, CPLR 311 (a) (1) sets forth various means of personal service on a corporation, including by delivery of process "upon an officer, director, managing or general agent, or . . . any other agent authorized by appointment or by law to

receive service" (see also CPLR 2103 [b] [1] and [c] [together providing that service of interlocutory papers on a party not appearing by counsel may be made "by delivering the paper[s] . . . personally"])).

Applying these standards here, counsel fails to establish proper service of this motion on either defendant FAWAZ TAREB, a natural person, or defendant WFAZ CORP., a corporation. The supporting affirmation of service states only:

"On October 25, 2024, I served via USPS PRIORITY MAIL TRACKING the following:
Notice of Motion for Attorney to be Relieved, Affirmation in Support, Exhibits upon:
FAWAZ TAREB
2187 HOLLAND AVE APT 1D
BRONX, NY 10462
Tracking NO. 940553010955052507905"

(New York State Courts Electronic Filing [NYSCEF], Doc. No. 321, affirmation in support, dated October 25, 2024 [emphasis added]).

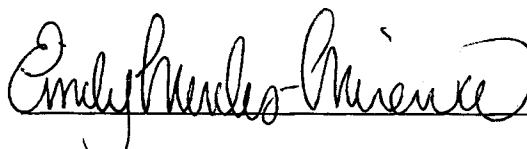
Among other things, there is no affirmation that the address listed therein is FAWAZ TAREB's designated place for service or their last known residence (see CPLR 306 [generally listing what proof of service shall specify, including setting forth facts showing that service was made by an authorized person in an authorized manner]). Further, plaintiff provides no affidavit or affirmation of service to show that it effectuated service on defendant corporation.

Accordingly, it is

ORDERED that non-party SISPAS PC's motion (seq. no. 011) for an order permitting it to be relieved as counsel is dismissed without prejudice to renewal upon proper service in accordance with this order; and it is further

ORDERED that counsel shall serve this order with notice of entry on all parties within ten days of such entry.

Date: January 17, 2025



Hon. Emily Morales-Minerva, J.S.C.