

**Moran v Muller**

2025 NY Slip Op 33203(U)

August 26, 2025

Supreme Court, New York County

Docket Number: Index No. 151844/2023

Judge: Leslie A. Stroth

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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. LESLIE A. STROTH PART 12M

*Justice*

-----X

KHADIJAH MORAN,

Plaintiff,

- v -

SEBASTIAN MULLER, LE DISTRICT

Defendant.

-----X

INDEX NO. 151844/2023

MOTION DATE 07/29/2025

MOTION SEQ. NO. 003

**DECISION + ORDER ON MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 003) 15, 16, 17

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

**FACTUAL BACKGROUND**

Plaintiff commenced this action on February 25, 2023, asserting claims against Defendants Sebastian Muller and Le District. Issue was joined on March 31, 2023. Plaintiff is represented by Michael G. O’Neill, Esq.

Counselor O’Neill now moves to withdraw as attorney of record for Plaintiff, citing Plaintiff’s failure to communicate, failure to cooperate in the prosecution of her case, and failure to meet financial obligations under the retainer agreement. Counsel affirms that despite multiple written and oral attempts to communicate including emails, phone calls, and priority mail letters, Plaintiff has not responded. Counsel further states that Plaintiff has not paid her agreed-upon legal fees and that his withdrawal at this stage will not prejudice Plaintiff because the case has not yet proceeded to preliminary conference and no deadlines have been established.

**LEGAL STANDARD**

CPLR 321(b)(2) provides: “[a]n attorney of record may withdraw or be changed by order of the court in which the action is pending, upon motion on such notice to the client of the

withdrawing attorney, to the attorneys of all other parties in the action or, if a party appears without an attorney, to the party, and to any other person, as the court may direct.”

An attorney may move to be relieved as counsel if the attorney deems it necessary to end the attorney-client relationship without the clients consent. (*Farage v Ehrenberg*, 124 AD3d 159 [2nd Dept 2014]). “The decision to grant or deny permission for counsel to withdraw lies within the discretion of the trial court, and the court's decision should not be overturned absent a showing of an improvident exercise of discretion” (*Applebaum v. Einstein*, 163 AD3d 905, 907 [1st Dept 2018]).

Failure to pay reasonable legal fees is sufficient grounds to grant leave to withdraw. (*Applebaum* 163 AD3d 905 at 907; *Weiss v Spitzer*, 46 AD3d 675 [2d Dept 2007]). Additionally, an attorney may withdraw from representing a client if the client “fails to cooperate in the representation or otherwise renders the representation unreasonably difficult for the lawyer to carry out employment effectively.” (*Aragona v Shaibani*, 138 AD3d 649, 650 [2d Dept 2016] quoting Rules of Professional Conduct [22 NYCRR 1200.0] rule 1.16[c][7]).

## DISCUSSION

Here, counsel has established good cause for withdrawal. Counsel’s affirmation details Plaintiff’s failure to communicate despite repeated emails, phone calls, and letters. Counsel also provided an affirmation of service of the instant motion upon Plaintiff on April 30, 2025. (NYSCEF Doc No. 17). Plaintiff also failed to provide a new email address after advising she would do so, and she did not respond to a priority mail letter expressly outlining the necessity of her cooperation. Such sustained non-responsiveness constitutes a failure to cooperate that renders continued representation unreasonably difficult.

Additionally, counsel affirms that Plaintiff has failed to satisfy her financial obligations under the retainer agreement. Nonpayment of reasonable legal fees warrants withdrawal (*see Weiss*, 46 AD3d 675).

Finally, withdrawal will have limited prejudice to Plaintiff. The case is still at an early stage, no preliminary conference has been held, and no deadlines or court-ordered discovery schedule is in place. Thus, substitution of counsel can occur without adverse impact on Plaintiff's ability to pursue her claims. As such, the Court finds sufficient grounds to relieve counsel, and the motion is granted.

Accordingly, it is hereby;

ORDERED that the motion of Michael G. O'Neill, Esq. to withdraw as counsel for Plaintiff Khadijah Moran is granted upon filing of proof of compliance with the following conditions; and it is further

ORDERED that, within 10 days from entry, said attorney shall serve a copy of this order with notice of entry upon the former client at her last known address by certified mail, return receipt requested, and upon the attorneys for all other parties appearing herein by filing on the New York State Courts Electronic Filing 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 client to appoint a substitute attorney within 30 days from the date of the mailing of the notice and the client shall comply therewith, except that, in the event Plaintiff Khadijah Moran intends instead to represent herself, she shall notify the Clerk of the Part of this decision in writing within said 30-day period; and it is further

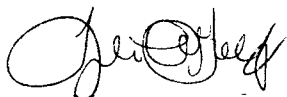
ORDERED that no further proceedings may be taken against the former client without leave of this court for a period of 60 days after service on the former client of the aforesaid notice to appoint a substitute attorney; and it is further

ORDERED that the departing attorney shall, within 10 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).

The foregoing constitutes the decision and order of the court.

8/26/2025  
DATE

  
**HON. LESLIE A. STROTH**  
J.S.C.

CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION	<input type="checkbox"/>	OTHER
	<input checked="" type="checkbox"/>	GRANTED	<input type="checkbox"/>	DENIED	<input type="checkbox"/>	GRANTED IN PART
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>	SUBMIT ORDER	<input type="checkbox"/>	FIDUCIARY APPOINTMENT
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	REFERENCE		