

Noh v Yepez

2025 NY Slip Op 33240(U)

August 28, 2025

Supreme Court, New York County

Docket Number: Index No. 651460/2024

Judge: Andrea Masley

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 48

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DANIEL NOH,

Plaintiff,

- v -

RICHARD YEPEZ, ROLLY EDOUARD, NIYA NEWMAN,
NEW NEW CAPITAL, LLC, ARIANNA PEREZ, CHAVEZ
HOLDINGS LLC, and LATIN BUD LLC,

Defendants.

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INDEX NO. 651460/2024

MOTION DATE --

MOTION SEQ. NO. 007

**DECISION + ORDER ON
MOTION**

HON. ANDREA MASLEY:

The following e-filed documents, listed by NYSCEF document number (Motion 007) 117, 118, 119, 120, 121

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

In motion sequence 007, Wachtel Missry LLP (Wachtel) moves to withdraw as counsel for defendants Arianna Perez and Chavez Holdings LLC (together, Chavez Defendants). The Chavez Defendants were served on August 13, 2025 with the Order to Show Cause and accompanying papers (NYSCEF 121, aff of service) but filed no opposition. A stay was not requested.

Discussion

“Generally, there are three primary reasons allowing withdrawal of an attorney from a case: failure of a party to remain in contact with counsel; deterioration of the attorney-client relationship; nonpayment of legal fees.” (*Countryman v Watertown Hous. Auth.*, 13 Misc 3d 632, 633 [App Term, 1st Dept 2006] [citations omitted].)

Here, counsel avers that

“[i]n mid to late March 2024, I was introduced to Christian Chavez ..., the principal of Chavez Holdings. According to Christian, he is also defendant

Perez's brother. Christian and I discussed the possibility of Wachtel Missry representing the Chavez Defendants in this action. At Christian's request, and with the understanding that the Chavez Defendants would retain Wachtel Missry to represent them in this case." (NYSCEF 118, Woller aff ¶ 3.)

On May 13, 2025, Wachtel filed an answer on behalf of the Chavez Defendants, after which time "Chris[t]ian stopped communicating" with counsel who "communicated to Christian by email that [he] would move to withdraw as counsel" but "received no response." (*Id.* ¶¶ 5-6.) "The Chavez Defendants never officially retained Wachtel Missry and never paid any retainer or any legal fees to Wachtel." (*Id.* ¶ 7.) Thus, counsel has demonstrated that withdrawal is warranted due to lack of communication and nonpayment of legal fees.

Counsel for the remaining defendants was relieved previously. (See NYSCEF 111, Dec. 28, 2024 Decision and Order [mot. seq. no. 006] [granting motion to withdraw by Mandelbaum Barrett, PC, counsel for Rolly Edouard, Niya Newman, NewNewCapital, LLC, and Latin Bud, LLC]; NYSCEF 93, Nov. 17, 2024 Decision and Order [mot. seq. no. 004] [granting motion to withdraw by Mandelbaum Barrett, PC, counsel for Richard Yepez].) No replacement counsel for these remaining defendants has appeared.

The OSC included a referral to the City Bar Association's Legal Referral Service. The matter is stayed until September 19, 2025.

Accordingly, it is

ORDERED that the motion is granted in the absence of opposition upon meeting the following conditions:

ORDERED that Wachtel Missry LLP is directed to serve a copy of this order with notice of entry upon Arianna Perez and Chavez Holdings LLC at their last known

addresses by certified mail, return receipt requested, and by email, all service to be made within 10 business days of the date of this decision and order, and by posting to the New York State Courts Electronic Filing System (NYSCEF); and it is further

ORDERED that, together with the copy of this order with notice of entry served upon Arianna Perez and Chavez Holdings LLC, Wachtel Missry LLP shall forward a notice directing Chavez Holdings LLC to appoint a substitute attorney. While individual defendants may represent themselves, corporate defendants can only appear by counsel. (CPLR 321[a]; *Park v Song*, 61 Misc 3d 1047, 1050 [Sup Ct, NY County 2018].) If corporate defendants fail to appear by counsel, it may constitute a default; and it is further

ORDERED that if Arianna Perez elects to represent herself, Arianna Perez shall register as a participating party in NYSCEF within 10 days of the date of this decision and inform the court by emailing sfc-part48@nycourts.gov. Arianna Perez is cautioned that if she decides to represent herself but fails to register on NYSCEF, she will not receive court notices; and it is further

ORDERED that any new attorney retained by Arianna Perez or Chavez Holdings LLC shall file a notice of appearance with the Clerk of the General Clerk's Office and the Part 48 Clerk; and it is further

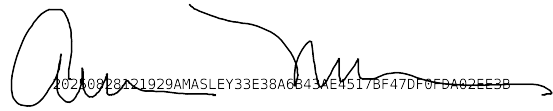
ORDERED that the filing of a notice of appearance with the Clerk of the General Clerk's Office shall be made in accordance with the procedures set forth in the Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases (accessible at the "E-Filing" page on the court's website at the address www.nycourts.gov/supctmanh); and it is further

ORDERED that the issue of the reasonable value of legal services rendered and disbursements paid will be severed and referred to the Special Referee Clerk for assignment to a Special Referee to hear and report if Wachtel Missry LLP, Arianna Perez, or Chavez Holdings LLC inform the court of their request for such a referral within 30 days of the date of this decision and order. Otherwise, such a referral is waived; and it is further

ORDERED that Wachtel Missry LLP shall turn over the file pertaining to this case upon the fixing of the value of his services and the payment thereof (*Yaron v Yaron*, 58 AD2d 752 [1st Dept 1977]) or the posting of a bond for the payment; and it is further

ORDERED that the court will hold an in-person conference at 12:30 pm on September 26, 2025 at courtroom 242, 60 Centre St, New York, NY 10007. Failure to appear could result in dismissal (NYCRR §202.27); and it is further

ORDERED that Wachtel Missry LLP shall serve the remaining defendants, Rolly Edouard, Niya Newman, NewNewCapital, LLC, Latin Bud, LLC, and Richard Yepez, with the copy of this order with notice of entry at their last known addresses by certified mail, return receipt requested, and by email, all service to be made within 10 business days of the date of this decision and order. Corporate defendants are cautioned that they can only appear by counsel. (CPLR 321[a]; *Park v Song*, 61 Misc 3d 1047, 1050 [Sup Ct, NY County 2018].) If corporate defendants fail to appear by counsel, it may constitute a default.



8/28/2025

DATE

ANDREA MASLEY, J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE