

Eden Wood Realty LLC v Stagen

2025 NY Slip Op 33711(U)

September 26, 2025

Supreme Court, New York County

Docket Number: Index No. 651476/2024

Judge: Arlene P. Bluth

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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. ARLENE P. BLUTH PART 14

Justice

-----X

EDEN WOOD REALTY LLC
Plaintiff,

- v -

THOMAS N STAGEN,
Defendant.

-----X

INDEX NO. 651476/2024
MOTION DATE 9/9/2025
MOTION SEQ. NO. 001

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 001) 10, 11, 12, 13, 14, 15, 16

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

Plaintiff’s counsel’s motion to withdraw as attorney of record and to extend the deadline for dispositive motions is granted.

Background

In this post-note-of-issue fraud and breach of fiduciary duty case, plaintiff’s attorney, Judd Burstein of Judd Burstein P.C. moves to withdraw as attorney of record for plaintiff and for a temporary stay of the action – including staying the date by which the parties must file summary judgment motions.

Defendant’s attorney consents to all of the relief plaintiff’s counsel seeks and reiterates the request for a stay to file dispositive motions. The deadline to file dispositive motions in the instant matter is currently October 6, 2025, as the note of issue was filed on June 6, 2025 (NYSCEF Doc. No. 9). The parties request that the Court stay the note of issue deadline until 60 days after the Court issues a decision on the instant motion.

Discussion

Withdraw

The Court grants plaintiff's counsel's motion to withdraw as attorney of record for plaintiff as unopposed.

Extend Deadline to File Dispositive Motions

Here, plaintiff's outgoing law firm claims that they have been unable to communicate effectively with their client about a number of matters over the past year. Yet recently, plaintiff's outgoing attorney and defendant's attorney represented to the Court that all discovery has been completed in this action and requested that the Court put this matter on the trial calendar (NYSCEF Doc. No. 7). That stipulation was uploaded to the Court on May 28, 2025. On May 29, 2025, the Court gave the parties what they asked for and ordered a note of issue be filed on or before June 6, 2025 (NYSCEF Doc. No. 8). The plaintiff uploaded the note of issue on June 6, 2025 at NYSCEF Doc. No. 9, which in turn set the clock running on the 120 day deadline for the parties to file dispositive motions.

It seems odd that plaintiff's outgoing attorney has had difficulty communicating with plaintiff over the past year, yet, on May 28, 2025 the outgoing attorney represented that discovery was done, and on June 6, 2025 plaintiff's outgoing attorney filed a note of issue and started the clock running to file dispositive motions.

Defendant also asks for the 60-day stay. Defendant's attorney's affirmation in support of the present motion states that, "Stagen plans to file a dispositive motion with respect to both actions. He should not be forced to file the motion while the opposition is unrepresented, only to

have the motion adjourned several weeks, if not months, before answering papers are served.” In the other action, in which the deadline has already passed, a stay was denied.

In this action, the Court is not thrilled with the prospect of abandoning a case at the last minute in order to extend a note of issue deadline. However, the fact is that the Court just had knee surgery and probably will not get to the motion as quickly as normal anyway, and so will grant the stay due to these special circumstances. There is no reason to order the lawyers to hurry up only to wait for the judge. Therefore, the Court will allow extra time for the making of dispositive motions.

Accordingly, it is hereby

ORDERED that the motion brought by the law office of Judd Burstein P.C. to withdraw as counsel for plaintiff is granted without opposition conditioned upon outgoing counsel complying with the following:

ORDERED that within 10 days of this order, outgoing attorney serve a copy of this order with notice of entry upon former client by certified mail and email and upon the attorneys for defendant by posting to the New York State Courts Electronic Filing System; and it is further

ORDERED that, together with a 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; and counsel shall upload an affidavit of service for the notice and decision within 10 days of mailing to the former client; and it is further

ORDERED that the Court grants the part of plaintiff’s outgoing attorney’s motion which seeks to stay the deadline for dispositive motions and any such motion(s) must be made by January 12, 2026.

ORDERED that all other relief the parties requested is denied.

9/26/2025

DATE



ARLENE P. BLUTH, 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