

**Stagen v Neu**

2025 NY Slip Op 33715(U)

September 26, 2025

Supreme Court, New York County

Docket Number: Index No. 654161/2022

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

THOMAS N. STAGEN,

Plaintiff,

- v -

AMY W. NEU,

Defendant.

-----X

INDEX NO. 654161/2022

MOTION DATE 9/9/2025

MOTION SEQ. NO. 003

**DECISION + ORDER ON  
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 003) 75, 76, 77, 78, 79, 80, 81

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

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

**Background**

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

Plaintiff’s attorney consents to all of the relief defendant’s counsel seeks and reiterates the request for a stay to file dispositive motions. The deadline to file dispositive motions in the instant matter has passed – it was August 15, 2025, as the note of issue was filed on April 17, 2025 (NYSCEF Doc. No. 74). The parties request that the Court stay deadline to file dispositive motions until 60 days after the Court issues a decision on the instant motion.

## Discussion

### Withdraw

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

### Extend Deadline to File Dispositive Motions

Here, defendant'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, defendant's outgoing attorney and plaintiff'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. 72). That stipulation was uploaded to the Court on March 19, 2025. On March 20, 2025, the Court gave the parties what they asked for and ordered a note of issue be filed on or before April 18, 2025 (NYSCEF Doc. No. 73). Plaintiff's attorney uploaded the note of issue on April 17, 2025 at NYSCEF Doc. No. 74, which in turn set the clock running on the 120 day deadline for the parties to file dispositive motions.

It seems odd that defendant's outgoing attorney has had difficulty communicating with defendant over the past year, yet, on March 19, 2025 the outgoing attorney represented that discovery was done. Furthermore, April 17, 2025 plaintiff's attorney filed a note of issue which started the clock running to file dispositive motions, and defendant did not move to vacate the note of issue and does not contend that there is any outstanding discovery.

Plaintiff also asks for the 60-day stay but, like defendant, has already had more than 120 days to file motions. Plaintiff's attorney's affirmation in support of the present motion at NYSCEF Doc. No. 81 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." This makes no sense; plaintiff's motion should have been filed long ago, while defendant was represented.

Clearly, the parties have waived their rights to make dispositive motions in this case (under this index number). The Court therefore denies the part of defendant's counsel's motion which seeks to extend the note of issue deadline under this index number.

Accordingly, it is hereby

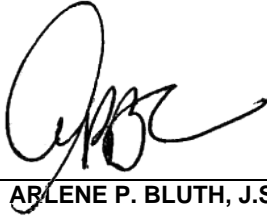
ORDERED that the motion brought by the law office of Judd Burstein P.C. to withdraw as counsel for defendant is granted without opposition conditioned upon outgoing counsel complying with the following:

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 plaintiff 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 or that she may represent herself; 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 denies the part of defendant's outgoing attorney's motion which seeks to stay the deadline for dispositive motions to 60 days from the date that this order is uploaded; and it is further

ORDERED that all other relief the parties requested is denied.

<u>9/26/2025</u> DATE					 ARLENE P. BLUTH, J.S.C.	
CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input type="checkbox"/>	DENIED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION
APPLICATION:	<input type="checkbox"/>	GRANTED	<input type="checkbox"/>	DENIED	<input checked="" type="checkbox"/>	GRANTED IN PART
CHECK IF APPROPRIATE:	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>		<input type="checkbox"/>	SUBMIT ORDER
	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>		<input type="checkbox"/>	FIDUCIARY APPOINTMENT
					<input type="checkbox"/>	OTHER
					<input type="checkbox"/>	REFERENCE