

JianYing Knitting Factory v Louise Paris, LTD

2025 NY Slip Op 33966(U)

October 14, 2025

Supreme Court, New York County

Docket Number: Index No. 656200/2023

Judge: Emily Morales-Minerva

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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. EMILY MORALES-MINERVA PART 42M

Justice

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INDEX NO. 656200/2023

JIANYING KNITTING FACTORY

MOTION DATE 05/22/2025

Plaintiff,

MOTION SEQ. NO. 003

- v -

LOUISE PARIS, LTD,

**DECISION + ORDER ON
MOTION**

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 003) 27, 28, 29

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

APPEARANCES :

Lazarus & Lazarus, P.C., New York, NY (Harlan Mitchell Lazarus, Esq., of counsel) for defendant.

HON. EMILY MORALES-MINERVA, J.S.C.

In this action, non-party Lazarus & Lazarus (movant) moves, by notice of motion (mot. seq. no. 03), for an order, pursuant to CPLR § 321 (b), permitting withdrawal as counsel of record for defendant LOUISE PARIS, LTD. (defendant). Further, movant seeks a temporary stay of the proceedings for 30 days. Neither plaintiff nor defendant appear or submit opposition to the motion.

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]; see also Bok v Wener, 9 AD3d 318 [1st Dept 2004]).

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 . . . ; or

"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 . . . ; or

"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" (BCL § 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 made "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 defendant Louise Paris, Ltd., a corporation. The supporting affirmation of service states only:

"On May 5, 2025, I served a copy of the Notice of Motion for Leave to Withdraw as Counsel; and Affirmation of Harlan M. Lazarus, Esq. in Support of the Motion in the above referenced action via electronic mail to Louise Paris Ltd. via Joseph Barnathan at joey@louiseparis.com and Albert Barnathan at AB@louiseparis.com"

(New York State Court Electronic Filing System [NYSCEF] Doc. No. 29, notarized affidavit of service, dated May 05, 2025).

Among other things, subdivision (c) of rule 2103 does not authorize service by electronic means (see generally CPLR § 2103 [b] and [c] [providing that service shall be made upon the party by a method specified in CPLR § 2103 (b) (1), (2), (4), (5) or (6), and service by electronic means is detailed in subdivision (7)]; see also Thomas F. Gleason, 2023 Supp Prac Commentaries, McKinney's Cons Laws of NY, CPLR C:2103:3 [discussing that, although facsimile service is being supplanted by email, "email is not yet an authorized method for service"]).

Accordingly, it is hereby

ORDERED that non-party Lazarus & Lazarus's motion (seq. no. 03) for an order permitting it to be relieved as counsel is

dismissed without prejudice to renewal upon proper service in accordance with this order; it is further

ORDERED that movant shall serve this order with notice of entry on all parties within ten days of such entry; and it is further

ORDERED that the Clerk of Court shall mark the file accordingly.

THIS CONSTITUTES THE DECISION AND ORDER OF THE COURT.

10/14/2025
DATE


EMILY MORALES-MINERVA, J.S.C.

CHECK ONE:

CASE DISPOSED

GRANTED

SETTLE ORDER

INCLUDES TRANSFER/REASSIGN

DENIED

NON-FINAL DISPOSITION

GRANTED IN PART

SUBMIT ORDER

FIDUCIARY APPOINTMENT

OTHER

REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: