

**Board of Mgrs. of 165 E. 62nd St. Condominium v  
Churchill E. 62nd LLC**

2025 NY Slip Op 33990(U)

October 14, 2025

Supreme Court, New York County

Docket Number: Index No. 656401/2022

Judge: Emily Morales-Minerva

Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op 30001(U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.

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

-----X

BOARD OF MANAGERS OF 165 E. 62ND STREET
CONDOMINIUM,

Plaintiff,

INDEX NO. 656401/2022

MOTION DATE 06/24/2025

MOTION SEQ. NO. 006

- v -

CHURCHILL E 62ND LLC,JUSTIN EHRLICH, SORABH
MAHESHWARI, COUNTRYWIDE BUILDERS INC.,JOHN
DOE NOS. 1 THROUGH 10, AND JANE DOE NOS. 1
THROUGH 10, SAID NAMES BEING FICTITIOUS AND
UNKNOWN TO PLAINTIFF BUT INTENDING TO BE THE
RECIPIENTS OF ANY VOIDABLE TRANSFERS MADE BY
CHURCHILL E 62ND LLC,JUSTIN EHRLICH OR SORABH,

Defendants.

DECISION + ORDER ON
MOTION

-----X

The following e-filed documents, listed by NYSCEF document number (Motion 006) 124, 125, 126, 127
were read on this motion to/for ATTORNEY -
DISQUALIFY/RELIEVE/SUBSTITUTE/WITHDRAW .

APPEARANCES :

Nutovic & Associates, New York, NY (Isaac Nutovic, Esq., of
counsel) for defendant Countrywide Builders Inc.

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

In this action, non-party Nutovic & Associates (movant)
moves, by notice of motion (mot. seq. no. 06), for an order,
pursuant to CPLR § 321 (b), permitting withdrawal as counsel of
record for defendant COUNTRYWIDE BUILDERS INC. (defendant).
Further, movant seeks a temporary stay of the proceedings for 30
days.

While plaintiff BOARD OF MANAGERS OF 165 E. 62ND STREET CONDOMINIUM does not oppose movant's application to withdraw as counsel, it does oppose movant's request for a temporary stay of the proceedings. Defendant Countrywide Builders Inc. does not 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 serve 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 Countrywide Builders Inc., a corporation. The supporting affirmation of service states only:

"I caused the Notice of Motion and supporting Affirmation to be served (i) via email on Mayer Weber at mayer@countrywidebuildersny.com and (ii) via Federal express addressed to:

"Countrywide Builders Inc.  
Mayer Weber  
75 Seabring St  
Brooklyn, NY 11231-1622"

(New York State Court Electronic Filing System [NYSCEF] Doc. No. 127, certificate of service, undated).

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))]. Additionally, there is no affirmation explaining that the address listed therein is defendant's designated place for service or its last known address (see CPLR § 306 [generally listing what proof of service shall specify, including setting forth facts showing that service was made by an authorized person in an authorized manner]).

Accordingly, it is hereby

ORDERED that non-party Nutovic & Associates' motion (seq. no. 06) 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*  
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: