

Zambrano v Toll NY II, L.P.

2026 NY Slip Op 30416(U)

January 29, 2026

Supreme Court, New York County

Docket Number: Index No. 158829/2022

Judge: Arlene P. Bluth

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**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. ARLENE P. BLUTH PART 14

Justice

-----X

WILLIAM ZAMBRANO,

Plaintiff,

- v -

TOLL NY II, L.P., TOLL NY II LLC, TOLL GC LLC, TOLL
BROS., INC., TOLL BROTHERS, INC.

Defendant.

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INDEX NO. 158829/2022

MOTION DATE N/A

MOTION SEQ. NO. 003

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 003) 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64

were read on this motion to/for MISCELLANEOUS.

Plaintiff’s motion to compel Subin & Associates LLP to turn over a complete copy of plaintiff’s file is granted.

Background

In this Labor Law case, plaintiff seeks to compel his prior attorney to turn over his case file. He includes an affirmation in which he explains that he initially retained a different attorney when this case began but then, upon the recommendation of an “intermediary” he switched to Subin and Associates via a consent to change attorney in February 2023. Plaintiff complains that he did not hear from this firm until he received their order to show cause to be relieved as counsel. He stresses that he does not read or write in English and that he only received a copy of this order to show cause in English.

Plaintiff insists there was never a fundamental disagreement in the direction of the lawsuit—the grounds cited by Subin in its motion to withdraw—as he never discussed the case with them outside of the first interaction. He contends that he has made requests to get a copy of the file but has not received a response.

Defendants file a “reply” in which they point out that the plaintiff identified in the Court’s decision granting Subin’s prior motion to withdraw is not the plaintiff here. They claim they “renew” their request that they be provided with grounds for withdrawal in open court and that plaintiff be required to provide the identity and contact information for the intermediary referenced by plaintiff. Defendants insisted that plaintiff commenced a separate action in Queens County in which he alleged that he was injured on the same day at a different construction site, this time in Brooklyn.

Discussion

As an initial matter, the Court observes that both plaintiff and defendants are correct that the prior judge assigned to this case granted Subin’s motion to withdraw and referenced a different plaintiff in that decision. Subsequently, the case was transferred to a different judge who signed this order to show cause in April 2025 but never issued a decision on this motion.¹

While it is concerning that the prior order did not mention the correct plaintiff, it seems that plaintiff has now found new counsel and so the Court sees no reason to revisit that order from nearly two years ago or to make Subin discuss the reasons for withdrawal in open court. In

¹ The Court records show that there was preliminary conference held in July 2025 but, bizarrely, no order was uploaded to NYSCEF about this conference.

other words, plaintiff now has competent counsel and so the issues with Subin's representation, including plaintiff's assertion that he only spoke to Subin on one occasion, are not ripe for this motion. Certainly, if plaintiff obtains a recovery and Subin wants a portion of the legal fees, then the extent of its representation of plaintiff will be a relevant topic for exploration. But plaintiff did not move to reargue or renew the prior judge's decision letting Subin off the case.

Defendants' concerns about plaintiff bringing two seemingly identical lawsuits about two accidents that occurred at two different locations on the same day and at the same time is, to say the least, understandable. But defendants did not make a cross-motion or a separate motion for discovery. Merely inserting a request in a "reply" to this motion, which is only for an order directing Subin to turn over plaintiff's file, is not a basis upon which this Court can direct plaintiff to disclose information. Nothing prevents defendants from serving a proper demand and, if necessary, filing a proper motion. It appears that there may be a lot more to this case than this simple motion – which is to turn over a file – and those other issues will certainly be addressed when they are properly before the Court.

The Court will schedule a discovery conference for April 23, 2026. By April 16, 2026, the parties are directed to upload a discovery stipulation. By then, the Court hopes there is more clarity about the issues detailed by defendants in their papers submitted on this motion. Based on the submission, the Court will assess whether or not an in-person conference is required. If nothing is uploaded, then the Court will adjourn the conference. Nothing prevents the parties from making non-discovery motions before then.

Accordingly, it is hereby

ORDERED that plaintiff's motion to compel his former attorney, Subin & Associates LLP, to turn over his file is granted and his former firm shall turn over his file within 2 days after receipt of a copy of this order along with notice of entry (to be served by overnight mail).

1/29/2026

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