

<b>Board of Mgrs. of the 130 W. 17th St. Condominium v Rubin Museum of Art</b>
2024 NY Slip Op 34275(U)
December 3, 2024
Supreme Court, New York County
Docket Number: Index No. 152216/2023
Judge: Emily Morales-Minerva
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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. EMILY MORALES-MINERVA PART 42M

Justice

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THE BOARD OF MANAGERS OF THE 130 WEST 17TH STREET CONDOMINIUM, ON BEHALF OF ALL UNIT OWNERS,

Plaintiff,

- v -

RUBIN MUSEUM OF ART A/K/A SHELLY AND DONALD RUBIN CULTURAL TRUST, FORMATION NYC LLC, HACKD FITNESS, LLC, D/B/A PRTL

Defendant.

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INDEX NO. 152216/2023
MOTION DATE Oct. 30, 2024
MOTION SEQ. NO. 004

DECISION + ORDER

APPEARANCES:

Braverman Greenspun, P.C., New York, NY (Kelly Ann Ringston, Esq., of counsel), for plaintiff.

Goldberg Weprin Finkel Goldstein LLP, New York, NY (Matthew Ethan Hearle, Esq., of counsel), for defendant RUBIN MUSEUM OF ART A/K/A SHELLY AND DONALD RUBIN CULTURAL TRUST.

Patrick Doerr PLLC, New York, NY (Mark Thomas Doerr, Esq., of counsel), for defendant FORMATION NYC LLC.

The Price Law Firm LLC, New York, NY (Joshua C. Price, Esq., of counsel) for defendant HACKD FITNESS, LLC D/B/A PRTL.

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

In this breach of contract action, non-party The Price Law Firm, LLC (law firm) -- counsel for defendant HACKD FITNESS, LLC D/B/A PRTL (client) -- moves, by order to show cause (mot. seq. no. 004), for an order permitting it to withdraw from such representation and for an order staying this action for 60 days

thereafter. The record on this application includes proof of service on defendants (see NYSCEF Doc. No. 55, affidavit of service, dated November 21, 2024), and the matter was returnable in Part 42M, on November 25, 2024, at 3:00 P.M.

At the call of the calendar, all parties appeared, except for defendant HACKD FITNESS, LLC D/B/A PRTL. Said defendant did not contact the court with an excuse or request for an adjournment, and no parties raised any opposition to the motion. For the reasons set forth below, the court grants the application entirely.

An attorney may only withdraw as counsel upon a showing of good and sufficient cause, and reasonable notice (see CPLR § 321 [b] [2]; see also Bok v Werner, 9 AD3d 318 [1st Dept 2004]). The question of whether good cause exists lies within the sound discretion of the court (see Rivadeneria v New York City Health & Hosps. Corp., 306 AD2d 394 [2d Dept 2003]). Further, an attorney may withdraw as counsel if the client's failure to communicate with counsel renders the representation unreasonably difficult, undermining counsel's ability to represent the client effectively (see Raff & Becker LLP v Kaiser Saurborn & Mair, P.C., 160 AD3d 479 [1st Dept 2018]; see also Bankers Trust Co. v Hogan, 187 AD2d 305 [1st Dept 1992]).

Here, non-party law firm has made a sufficient showing of good cause for withdrawal based upon client's failure to communicate and cooperate with law firm's representation (see NYSCEF Doc. No. 53, Affirmation of Joshua C. Price, Esq.).

Accordingly, it is

ORDERED that the order to show cause (mot. seq. no. 004) is granted; it is further

ORDERED that non-party The Price Law Firm, LLC is permitted to withdraw and is relieved as counsel for defendant HACKD FITNESS, LLC D/B/A PRTL; it is further

ORDERED that this action is stayed for a period of 60 days from the date of entry of this order to allow defendant HACKD FITNESS, LLC D/B/A sufficient time to retain new counsel, and that said defendant shall notify this court, in writing, within the 60-day period as to incoming counsel's name and address; and it is further

ORDERED that non-party The Price Law Firm, LLC shall serve a copy of this order with notice of entry upon defendant HACKD FITNESS, LLC D/B/A PRTL and all other parties within 10 days of entry.

THIS CONSTITUTES THE DECISION AND ORDER OF THE COURT.

*Emily Morales Minerva*

12/3/2024

DATE

EMILY MORALES-MINERVA, 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