

SCAN

Short Form Order

SUPREME COURT - STATE OF NEW YORK

Present:

HON. JOSEPH COVELLO

Justice

MARIA SLATER,

Plaintiff,

-against-

**MERCHANTS INSURANCE COMPANY OF
NEW HAMPSHIRE, INC., EASTERN ADJUSTMENT
BUREAU, INC. and ANTHONY ALBANESE,**
Defendants.

**TRIAL/IAS, PART 22
NASSAU COUNTY**

Index No.: 19867/96

Motion Seq. No.: 004

Motion Date: 05/02/05

EASTERN ADJUSTMENT BUREAU, INC. and
ANTHONY ALBANESE,

Third-Party Plaintiffs,

-against-

CASTLE RESTORATION, INC.,
Third-Party Defendant.

CASTLE RESTORATION, INC.

Fourth-Party Plaintiff,

-against-

**RICHARD BONNEN d/b/a EL PERFECTIONIST
RESTORATION AND CLEANING COMPANY, INC.,
RICHARD BONNEN AND "JOHN DOE" AND "JANE
DOE", THE NAMES "JOHN DOE" AND "JANE
DOE" BEING FICTITIOUS AND INTENDED TO
DESIGNATE THE PERSONS WHO CLEANED AND
PACKED THE PORCELAIN FIGURINES OF THE
PLAINTIFF MARIA SLATER,**

Fourth-Party Defendants.

The following paper read on this motion:

Notice of Motion X

Upon the foregoing papers, the unopposed motion by the Law Firm of Matarazzo Blumberg & Associates, LLP, brought by Order to Show Cause for an Order relieving that firm as attorneys for the defendant / third-party plaintiff, Eastern Adjustment Bureau, Inc., is denied.

Movant asserts that the Law Firm of Matarazzo Blumberg & Associates, LLP, are

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the attorneys of record for the defendants / third-party plaintiffs, Eastern Adjustment Bureau, Inc., and Anthony Albanese, in the above captioned actions, which are on for Trial on May 25, 2005.

Movant sets forth that defendant / third-party plaintiff, Eastern Adjustment Bureau, Inc., is a corporate entity with two employees, Anthony R. Albanese and Thomas Muratore, and one principal, Dominic Oliviero; by Order of Justice Jerald S. Carter dated November 14, 2001, the claim against Anthony Albanese was dismissed; subsequent to the inception of this lawsuit, Dominic Oliviero and Anthony Albanese chose to dissolve Eastern Adjustment Bureau and end their business relationship.

Accordingly, movant asserts that it has no alternative than to seek to be relieved as counsel, as Eastern Adjustment Bureau no longer exists as a functioning entity. Counsel further states that Eastern Adjustment Bureau is no longer capable of paying for its legal services.

Movant has not provided any proof of Eastern Adjustment Bureau, Inc's., dissolution, or when the corporation was purportedly dissolved. No certificate of dissolution has been provided. However, even if the Corporation was dissolved it can still sue and be sued. See, Business Corporation Law §1008(4). In addition, a Corporation must appear by counsel. See CPLR §321(a).

As to movants assertion that Eastern Adjustment Bureau, Inc., is no longer capable of paying its legal bills, movant has not provided a copy of the retainer agreement, nor has it set forth that any of its bills have not been paid. There is also no indication that the corporation does not have any assets to pay the legal bills.

It is also noted that this action has appeared on the Trial calendar at least three times prior to the instant application.

Accordingly, movant, the Law Firm of Matarazzo Blumberg & Associates, LLP, has not provided a valid reason why it should be relieved as attorneys for defendants / third-party plaintiffs, Eastern Adjustment Bureau, Inc.

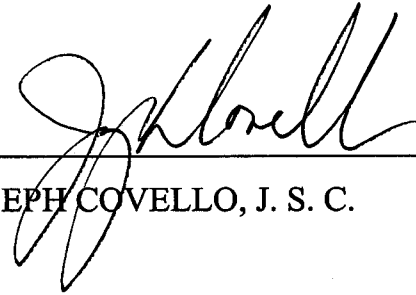
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Therefore, it is hereby

ORDERED, that the motion brought by Law Firm of Matarazzo Blumberg & Associates, LLP, for an Order relieving, it as attorneys for defendants / third-party plaintiffs, Eastern Adjustment Bureau, Inc., is denied in its entirety.

This constitutes the decision and order of the court.

Dated: May 23, 2005



JOSEPH COVELLO, J. S. C.

ENTERED

MAY 31 2005

NASSAU COUNTY
COUNTY CLERK'S OFFICE