

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

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GOVERNMENT EMPLOYEES INSURANCE COMPANY
AS SUBROGEE OF I. SANTIAGOMENDEZ and
MICHELLE C. COCHRAN and GEICO GENERAL
INSURANCE COMPANY AS SUBROGEE OF NEIL H.
WAGNER, MAVIS GRANT, LAURENCE M. MECHANIC,
JOSEPH M. LAZARRE, PATRICK N. FRANCIS, KEVIN J.
CRINNION, ALFREDO M. JIMENEZ, ANDRE M. MACK
and RAPHAEL D. ORTEGA and GEICO INDEMNITY
COMPANY AS SUBROGEE OF MERYL F. CITTADINO,
ALBERTA BOND, JEREMIAH S. MACKAY, RONNIE N.
ZAGLIN, CHRISTOPHER J. KLEIN, MAURICE O.
DEUTSCH, YVONNE S. LIVINGSTON, SARA E.
TALIERCI and JAMES G. TARPEY,

**MICHELE M. WOODARD
J.S.C.
TRIAL/IAS Part 12
Index No.: 8414/09
Motion Seq. No.: 02
DECISION AND ORDER**

Plaintiff(s),

-against-

AUTOTECH COLLISION INC. D/B/A AUTOTECH
COLLISION INC. II, AUTOTECH COLLISION, RVC
COLLISION INC. and BELLMORE COLLISION AND
TOWING INC.,

Defendant(s).

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Papers Read on this Motion:

Order to Show Cause	01
Defendants' Affidavit	xx

SHELDON KARASIK, hereinafter referred to as KARASIK, moves by order to show cause to be relieved as counsel for the Defendants. KARASIK claims that the Defendants have lost all confidence in him and would be better served by being represented by different counsel.

Pursuant to CPLR§321(b)(2), "an attorney of record may withdraw or be changed by order of the court in which the action is pending, upon motion on such notice to the client of the withdrawing attorney, to the attorneys of all other parties in the action or, if a party appears without an attorney, to the party, and to any other person, as the court may direct".

According to KARASIK, an attorney duly admitted to practice before the Courts of the State of New York, KARASIK & ASSOCIATES LLC was retained to represent the Defendants in the above named lawsuit in May, 2009. Said lawsuit involved a claim for alleged excessive

storage charges for the towing of damaged vehicles from accident scenes in Nassau County. KARASIK AND ASSOCIATES LLC has since merged with SIMON, EISENBERG & BAUM, LLP (“SEB”). As a result of the merger, SEB assumed the representation of the Defendants regarding said lawsuit.

SEB claims that its request to withdraw as counsel should be granted because: (1) the Defendants failed to pay fifty percent (the sum of that which is unknown because of client confidentiality) of the legal fees due and owing to SEB for its representation; (2) the Defendants have not been cooperating with SEB’s work in the manner that SEB expects from their clients (Affirmation of Sheldon Karasik in Support of Attorney Motion to Withdraw as Counsel, ¶6); (3) the Defendants have been extremely abusive and hostile when communicating with SEB (Affirmation of Sheldon Karasik in Support of Attorney Motion to Withdraw as Counsel, ¶7); (4) the Defendants made charges of professional misjudgment, and expressed a loss of confidence in SEB’s legal representation (SEB’s Exhibit A); and (5) withdrawal of counsel will not delay the prosecution of this matter.

The Defendants agree to SEB’s request for withdrawal. In addition, the Defendants request that the Court allow ninety days to retain new counsel due to the complexity of the case, as well as the volume of the case and the amount of documents requested by the Plaintiffs (Defendants’ Exhibit A). Also, the Defendants request that the Court order KARASIK and/or SEB to return all papers, pleadings, and materials related to this matter.

Pursuant to 22 NY ADC §1200.0, Rule 1.16(c) indicates that an attorney may withdraw from representing a client when withdrawal can be accomplished without material adverse effect on the interests of the client (22 NY ADC §1200.0, Rule 1.16(c)(1)), the client deliberately disregards an agreement or obligation to the lawyer as to expenses or fees (22 NY ADC §1200.0, Rule 1.16(c)(5)), or the client fails to cooperate in the representation or otherwise renders the representation unreasonably difficult for the lawyer to carry out employment effectively (22 NY ADC §1200.0, Rule 1.16(c)(7)).

Generally, there are three primary reasons for allowing withdrawal of an attorney from a case: (1) failure of a party to remain in contact with counsel; (2) deterioration of the attorney-client relationship; and (3) non-payment of legal fees. *Tartaglione v Tiffany*, 280 A.D. 2d 543 (2d Dept. 2001). An attorney does not have an unfettered right to unilaterally withdraw from representing a client; good cause is required, to be ultimately determined by the Court. *Countryman v Watertown House Authority*, 13 Misc. 3d 632 (App. Term, First Dept. 2006). A review of the papers submitted with the within motion clearly establishes that the attorney-client relationship has deteriorated and by no opposition of the Defendants, the Defendants failed to pay the total sum of its legal fees.

The application to be relieved is **granted**. It is hereby

ORDERED, that SHELDON KARASIK, ESQ. and SIMON, EISENBERG & BAUM, LLP are relieved as counsel for the above named Defendants. It is further

ORDERED, that a copy of this Order must be served personally, or by certified mail, return receipt requested, upon counsel for the Plaintiffs and upon the above named Defendants pursuant to CPLR§2103(b)(1)(3) within five (5) days of this Decision and Order. It is further

ORDERED, that any future proceedings are **Stayed** for sixty (60) days to allow the Defendants an opportunity to secure Counsel and otherwise protect its rights in this matter. It is further

ORDERED, that SHELDON KARASIK, ESQ. and SIMON, EISENBERG & BAUM, LLP return all papers, pleadings, and materials to the Defendants, related to this matter, within ten (10) days of this Decision and Order.

This constitutes the Decision and Order of the Court.

DATED: June 15, 2010
Mineola, N.Y. 11501

ENTER:



HON. MICHELE M. WOODARD
J.S.C.

ENTERED
JUN 23 2010
NASSAU COUNTY
COUNTY CLERK'S OFFICE