

At an Ex Parte Part of the Supreme Court of the State of New York, held in and for the County of Kings, located at 360 Adams Street, Brooklyn, New York this day of October, 2015.

P R E S E N T: HON. _____
Justice, Supreme Court

-----X

John Doe,

Index No.

Plaintiff,

- against -

ORDER TO SHOW CAUSE

Jane Doe,

Defendant.

-----X

UPON READING AND FILING the Affirmation of Richard A. Klass, Esq., affirmed the 8th day of October, 2015, the exhibits annexed hereto, and upon all of the papers and proceedings held herein,

LET Defendant or Plaintiff appear on November __, 2015, at 9:30 a.m. at an IAS Term, Part _____ of the Supreme Court, Kings County, at the Courthouse located at 360 Adams Street, Brooklyn, New York 11201, and show cause why an Order should not be granted, pursuant to CPLR 321(b)(2), permitting Richard A. Klass, Esq., attorney for Plaintiff, to withdraw as counsel for Plaintiff, and it is

ORDERED, that pending the hearing of this Order to Show Cause, all proceedings in this action are stayed, and

ORDERED that:

a) service by regular mail upon John Koe, Esq., Attorney for Defendant, of this Order to Show Cause together with the papers upon which it is based, on or before the ___ day of November, 2015, and

b) personal service upon Plaintiff, of this Order to Show Cause together with the papers upon which it is based, on or before the ___ day of November, 2015, shall be deemed good and sufficient service.

E N T E R :

J.S.C.

SUPREME COURT: STATE OF NEW YORK
COUNTY OF KINGS

-----X

John Doe,

Index No.

Plaintiff,

- against -

AFFIRMATION IN SUPPORT

Jane Doe,

Defendant.

-----X

RICHARD KLASS, ESQ., an attorney duly admitted to practice in the courts of the State of New York, affirms the following to be true under the penalties of perjury:

1. That your affirmant is the attorney for Plaintiff, and as such, is fully familiar with the facts and circumstances of this case.
2. That this is an action for trespass, nuisance, interference with easement, and easement by necessity. Your affirmant was retained by Plaintiff to represent him in this action on October 1, 2014.
3. That the retainer agreement with Plaintiff provided that your affirmant would be paid at the rate of \$400.00 per hour for services provided in this action.
4. That Plaintiff owes your affirmant the sum of \$20,000.00. See invoices attached hereto as Exhibit A..
5. That your affirmant did demand that Plaintiff pay such amounts, and that he has failed and otherwise refused to pay the same.
6. Plaintiff does not return my phone calls or respond to letters.

7. Withdrawal from this case is appropriate given Plaintiff's failure to pay your affirment's bills, failure to respond to calls and letters and the general breakdown of the attorney-client relationship. There are three primary reasons allowing an attorney to withdraw from a case: (a) failure to remain in contact with counsel; (b) deterioration of the attorney-client relationship; and (c) nonpayment of legal fees. *Tartaglione v. Tiffany*, 280 AD2d 543 [2 Dept. 2001].

8. No previous application for the relief sought herein has been made to this Court or any other court.

WHEREFORE, it is respectfully requested that this Court grant an Order should not be granted, pursuant to CPLR 321(b)(2), permitting Richard A. Klass, Esq., attorney for Plaintiff, to withdraw as counsel for Plaintiff, and for such other and further relief as this court deems just and proper.

Affirmed: Brooklyn, New York
October 8, 2015

RICHARD A. KLASS, ESQ.