

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
(WEST PALM BEACH DIVISION)

CASE NO. 09-20865-CIV-HURLEY/HOPKINS

JONATHAN E. PERLMAN, Esq., as court
appointed Receiver of Creative Capital
Consortium, LLC, et al.,

Plaintiff,

v.

GABRIELLE ALEXIS, et al.,

Defendants.

**RECEIVER'S MOTION TO MODIFY ORDER ON MOTION
TO WITHDRAW AS COUNSEL**

The Plaintiff, JONATHAN E. PERLMAN, Esq., by and through undersigned counsel, moves this Court for an order modifying this Court's Order on Motion to Withdraw as Counsel [DE 53], and in support thereof, states as follows:

1. On June 24, 2010, this Court entered a Final Judgment in the amount of \$750,000.000 against Gabrielle Alexis ("Alexis"), the Law Offices of Gabrielle Alexis, and Mondesir & Alexis Title Services, Inc. (collectively the "Defendants") and in favor of the Plaintiff, Jonathan E. Perlman. ("Final Judgment") [DE 51] after the Defendants failed to make payment pursuant to the terms of a court approved settlement agreement. [DE 43].

2. On July 9, 2010, Kenneth S. Pollock, Esq., of Shendell & Pollock, P.L. filed a Motion to Withdraw as Counsel for Defendants, Gabrielle Alexis and Law Office of Gabrielle Alexis, P.A.(the "Motion). [DE 52].

3. On July 14, 2010, this Court granted the Motion providing, among other things, each Defendant with thirty (30) days to retain a new attorney and have that attorney file a written appearance or file a written notification with the Clerk advising the Court that the party wishes to be self represented (the "Request"). [DE 53].

MEMORANDUM OF LAW

4. Pursuant to S.D. Fla. L.R. 7.1(c), responses to the Motion, however, were not due until July 26, 2010. Accordingly, the Receiver did not have an opportunity to file a response to the Motion.

5. It was the Receiver's intent to file a response thereto because in conferring with counsel, the Receiver was unaware of the proposed request for a thirty (30) day period to allow both the corporate defendants and Alexis time within which to retain new counsel. The discussion among counsel was confined to the withdrawal of Shendell & Pollock, P.L. as counsel. Consequently, the Receiver did not learn of the Request until being served with the Motion.

6. While the Receiver concedes that the corporate defendant requires counsel to represent its interest in this litigation, the same does not hold true for Alexis. As the Court is aware, the individual defendant, Alexis, is a licensed attorney in the State of Florida. Moreover, allowing Alexis thirty days within which to retain new counsel or notify the court of her wish to be self-represented would be prejudicial to the Receivership Estate in that it would substantially delay the Receiver's attempts to enforce his judgment creditor rights under the Final Judgment.

7. Any extended delay in the Receiver's efforts to collect upon the Final Judgment would not be in the best interests of the Receivership Estate. As this Court stated in its order granting the Receiver's Motion for Entry of Final Default Judgment in this matter [DE 50]:

“defendants materially breached the settlement agreement by failing to pay the receiver the settlement amount by March 31,2010...[T]he defendants request for additional time to cure the default must be denied, because they have had over 10 weeks to do so.

[DE 50 at p. 2].

CONCLUSION

7. The Receiver has now been waiting nearly four months to recover funds from the Defendants and any further delay would be to the detriment of the Receivership Estate. Accordingly, the Receiver submits that sufficient cause exists to shorten the time period for Alexis to retain new counsel, or notify the court that she will be self-represented, from thirty (30) to ten (10) days.

CERTIFICATE OF COUNSEL

8. Counsel for the Receiver has made good faith efforts to confer with opposing counsel and represents that she has contacted the offices of Kenneth Pollock, Esq. several times with regard to the relief sought herein but has not heard back from counsel as of the time of the filing this motion.

WHEREFORE, the Receiver respectfully requests the Court modify its Order of July 14, 2010, shortening the time period to ten (10) days for the individual defendant, Gabrielle Alexis, to retain new counsel or file a written notification with the Clerk advising the Court that she wishes to be self-represented. A proposed order is attached hereto as Ex. “A.”

Dated: July 15, 2010
Miami, Florida

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on July 15, 2010 the foregoing document was electronically filed with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

s/ Carmen D. Contreras-Martinez

SERVICE LIST

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United States District Court, Southern District of Florida**

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**ORDER ON MOTION TO MODIFY ORDER
GRANTING WITHDRAWAL OF COUNSEL**

This matter comes before the Court upon the Receiver's Motion to Modify Order Granting Withdrawal of Counsel (the "Motion") filed July 15, 2010. [DE ____]. Having reviewed the Motion, the record, and the case, it is hereby:

ORDERED AND ADJUDGED that

- 1) The Motion is hereby **GRANTED**.
- 2) This Court's Order Granting Shendell & Pollock, P.L.'s Motion to Withdraw [DE 53] is modified as follows:

Defendant Gabrielle Alexis' time within which to either retain new counsel and have that attorney file a written appearance or file a written notification with the Clerk advising the Court that she wishes to be self-represented shall be ten (10) days from the signing of this Order.

DONE AND ORDERED in chambers at West Palm Beach, Florida this ____day of
July, 2010.

The Honorable Daniel T.K. Hurley
United States District Judge

cc: All Counsel and Parties of Record