

Wilson v Law Offs. of Michael S. Lamonsoff, PLLC

2021 NY Slip Op 32612(U)

December 9, 2021

Supreme Court, New York County

Docket Number: Index No. 154053/2021

Judge: Frank P. Nervo

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This opinion is uncorrected and not selected for official publication.

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

PRESENT: HON. FRANK NERVO PART 04

Justice

-----X

TAYSHENAY WILSON

Plaintiff,

- v -

THE LAW OFFICES OF MICHAEL S. LAMONSOFF, PLLC,

Defendant.

-----X

INDEX NO. 154053/2021

MOTION DATE 04/27/2021

MOTION SEQ. NO. 001

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 001) 2, 7, 8, 9

were read on this motion to/for ATTORNEY - RELIEVE/SUBSTITUTE/WITHDRAW.

Plaintiff's incoming counsel, Liakas Law, P.C. (hereinafter "incoming counsel" or "Liakas"), moves to compel plaintiff's outgoing counsel, Law Offices of Michael S. Lamonsoff (hereinafter "outgoing counsel" or "Lamonsoff"), to provide plaintiff's legal file, to set disbursements, and for costs related to same. In opposition, outgoing counsel contends that it was not contacted by Liakas prior to this application and would have gladly provided the file if incoming counsel had requested same; it further contends that the application is moot, as Lamonsoff has provided the file to Liakas. Incoming counsel has not replied to this opposition.

The failure to request plaintiff's file prior to bringing this application has resulted in an astonishing waste of this Court's, as well as defendants', resources. Liakas' failure to rebut Lamonsoff's allegation that Liakas never requested the file prior to seeking Court intervention amounts to tacit acknowledgment of same (*Raia v. Potoschnig*, 170 AD3d 433 [1st Dept 2019]; *Wilmington Trust v. Sukhu*, 155 AD3d 591 [1st Dept 2017] Failure to raise an argument in opposition constitutes waiver). Furthermore, Liakas failed to withdraw an inarguably moot motion, or file a reply advising of same, resulting in further waste of judicial resources.

Accordingly, it is

ORDERED that the motion is denied in its entirety; and it is further

ORDERED that Stephen John Liakas, Esq., counsel for plaintiff, has engaged in frivolous conduct as defined in Section 130-1.1 (c) of the Rules of the Chief Administrator as set forth above, and having set out above the reasons why the conduct has been found frivolous and that sanctions should be awarded, and having found that the amount of sanctions to be awarded is appropriate as set forth above, it is now therefore

ORDERED that without any charge to its client, Liakas Law, P.C., is hereby sanctioned in the amount of \$150.00 (one hundred-fifty dollars) payable to the Lawyer's Fund for Client Protection, 119 Washington Avenue, Albany, New York 12210; and it is further


ORDERED that written proof of the payment of this sanction be provided to the Clerk of Part IV and opposing counsel within 30 days after service of a copy of this order with notice of entry; and it is further

ORDERED that, in the event that such proof of payment is not provided in a timely manner, the Clerk of the Court, upon service upon him of a copy of this order with notice of entry and an affirmation or affidavit reciting the fact of such non-payment, shall enter a judgment in favor of the Lawyer's Fund and against said counsel in the aforesaid sum; and it is further

ORDERED that such service upon the Clerk of the Court and the Clerk of the Part be made in accordance with the procedures set forth in the *Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases* (accessible at the "E-Filing" page on the court's website at the address www.nycourts.gov/supctmanh); and it is further

ORDERED that, in accordance with Section 130-1.3, a copy of this order will be sent by the Part to the Lawyer's Fund for Client Protection.

THIS CONSTITUTES THE DECISION AND ORDER OF THE COURT.

<u>12/9/2021</u>								
DATE				FRANK NERVO, J.S.C.				
CHECK ONE:	<input checked="" type="checkbox"/>	CASE DISPOSED		<input type="checkbox"/>	NON-FINAL DISPOSITION			
	<input type="checkbox"/>	GRANTED	<input checked="" type="checkbox"/>	DENIED	<input type="checkbox"/>	GRANTED IN PART	<input type="checkbox"/>	OTHER
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER			<input type="checkbox"/>	SUBMIT ORDER		
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN			<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input type="checkbox"/>	REFERENCE