

**English v McGrath**

2019 NY Slip Op 33655(U)

December 16, 2019

Supreme Court, New York County

Docket Number: 653168/2019

Judge: Debra A. James

Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op 30001(U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.

This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. DEBRA A. JAMES PART IAS MOTION 59EFM

Justice

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INDEX NO. 653168/2019

MICHAEL ENGLISH,

MOTION DATE 11/19/2019

Plaintiff,

MOTION SEQ. NO. 002

- v -

PATRICK MCGRATH,

DECISION + ORDER ON MOTION

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 002) 12, 13, 14, 15, 16 were read on this motion to/for ATTORNEY -

Upon the foregoing documents, it is

ORDERED that the motion of Zeichner Ellman & Krause LLP to be relieved as attorney for defendant PATRICK MCGRATH is granted without opposition upon filing of proof of compliance with the following conditions; and it is further

ORDERED that Zeichner Ellman & Krause LLP serve a copy of this order with notice of entry upon the former client at his last known address by regular first class mail, and upon the attorneys for all other parties appearing herein by posting to the New York State Courts Electronic Filing System; and it is further

ORDERED that, together with the copy of this order with notice of entry served upon the former client, moving counsel shall forward a notice directing the former client to appoint a substitute attorney within 30 days from the date of the mailing of

the notice and the client shall comply therewith, except that, in the event defendant intends instead to represent himself, he shall notify the Clerk of the Part of this decision in writing within said 30-day period; and it is further

ORDERED that any new attorney retained by defendant file a notice of appearance with the Clerk of the General Clerk's Office (60 Centre Street, Room 119) and the Clerk of the Part within 40 days from the date the notice to retain new counsel is mailed; and it is further

ORDERED that no further proceedings may be taken against the former client without leave of this court for a period of 40 days after service on the former client of the aforesaid notice to appoint a substitute attorney; and it is further

ORDERED that the issue of the reasonable value of legal services rendered and disbursements paid by movant is severed and referred to the Special Referee Clerk for assignment to a Special Referee to hear and report pursuant to the accompanying Order of Reference [see References] and, pending receipt of the report and a motion pursuant to CPLR 4403, final determination of that branch of the motion is held in abeyance; and it is further

ORDERED that counsel shall turn over the file pertaining to this case upon the fixing of the value of its services and the payment thereof (Yaron v. Yaron, 58 A.D.2d 752) or the posting of a bond for the payment thereof; and it is further

ORDERED that counsel for the movant shall, within 30 days from the date of this order, serve a copy of this order with notice of entry and the accompanying Order of Reference, together with a complete Information Sheet,<sup>1</sup> upon the Special Referee Clerk in the General Clerk's Office (60 Centre Street, Room 119), who is directed to place this matter on the calendar of the Special Referee's Part for the earliest convenient date subsequent to the conclusion of the stay fixed above; and it is further

ORDERED that such service upon the Special Referee Clerk, the filing of a notice of appearance as provided above with the Clerk of the General Clerk's Office, and service of documents on the Special Referee shall 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](http://www.nycourts.gov/supctmanh)); and it is further

ORDERED that the parties shall appear in IAS Part 59, 60

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<sup>1</sup> Available on the Court's website at [www.nycourts.gov/supctmanh](http://www.nycourts.gov/supctmanh) (under the "References" link in the navigator bar).

Centre Street, Room 331, New York, New York 10007, on February 11, 2020, 10:00 AM for oral argument of motion sequence 001.

DEC 16 2019

DATE

*Debra A. James*  
DEBRA A. JAMES, J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE