

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

SURF HORIZON LIMITED, A Cyprus Special Purpose Corporation
332 Patrician Chambers
3035 Limassol, Cyprus,

Plaintiff,

-against-

PAUL J. MANAFORT, JR.
10 St. James Place
Palm Beach Gardens, FL 33418

and

RICHARD W. GATES, III
206 Virginia Avenue
Richmond, Virginia 23226,

Defendants,

and

PERICLES EMERGING MARKET PARTNERS, L.P.
c/o Alexander Lawson and Kris Beighton
KPMG
Century Yard
Cricket Square
Grand Cayman KY1-1106
Cayman Islands,

Nominal Defendant.

**Index No.: 650130/2018
(Sherwood, J.)**

Mot. Seq. No. 001

**AFFIRMATION OF
JEFFREY M. EILENDER**

JEFFREY M. EILENDER, being an attorney duly admitted to the Courts of this state, affirms to the truth of the following under the penalty of perjury:

1. I am a member of Schlam Stone & Dolan LLP (“Schlam Stone”), attorneys for defendants Paul J. Manafort, Jr. and Richard W. Gates (together, “Defendants”) in the above-captioned action.

2. I submit this Affirmation in support of the emergency motion by my firm to withdraw as counsel for defendant Richard Gates, and on that basis seek an immediate interim stay of this action. This Affirmation also constitutes my Affirmation of Emergency as required by the court's rules. Unless otherwise specified, the statements herein are based upon my personal knowledge or a review of my files.

3. We were originally retained to represent both Defendants at a time when there did not appear to be any conflict between them. Due to developments that have been widely reported in the news involving the criminal case against Defendants, it now appears that my firm may have a conflict of interest in representing both Mr. Manafort and Mr. Gates in this action. Accordingly, my firm is seeking to withdraw from representing Mr. Gates.

4. The motion also requests an interim stay pending the hearing and decision of this motion and that the case be stayed for thirty days to give Mr. Gates time to obtain new counsel and avoid any prejudice to Mr. Manafort, whom my firm will continue to represent. There has been no preliminary conference or any discovery or any motion practice. The current deadline to respond to the Complaint is March 21, 2018.

5. Given that my firm expects to move to dismiss in lieu of answering the complaint, a single case schedule applicable to both Defendants also serves the interests of judicial economy by having one set of deadlines for the case.

6. As set forth below, I make this application by Order to Show Cause and am seeking interim relief in the form of an immediate stay because my law firm needs to be relieved immediately as counsel for Mr. Gates, and because the grounds for withdrawal prevent us from preparing a response to the complaint on behalf of Mr. Gates.

7. Rule 1.16(b)(1) of the Rules of Professional Conduct (22 NYCRR Part 1200, Rule 1.16(b)(1)) provides for mandatory withdrawal in certain circumstances. I believe those circumstances exist here. Without revealing attorney-client communications or attorney mental impressions concerning either this case or the criminal case against Mr. Manafort and Mr. Gates that is continuously reported on by the media, the most I can say is that, while Defendants were aligned at the outset, a conflict of interest between them appears to have arisen due to Mr. Gates' guilty plea in the criminal case as widely reported in the media. Thus, I do not believe we can effectively represent Mr. Gates in this action.

8. I also seek an immediate, interim stay of this action because the same reasons that require my firm's withdrawal prevent my firm from preparing a response to the complaint on behalf of Mr. Gates. In preparing an answer or motion in response to the complaint, Mr. Gates needs the advice of attorneys who do not have a conflict because they are representing, as we are, Mr. Manafort.

9. When counsel withdraws, courts routinely grant temporary stays to permit the client to retain new counsel. *See, e.g., Cantineri v. Carrere*, 106 A.D.3d 1475, 1476, 964 N.Y.S.2d 439, 440 (4th Dep't 2013) ("We therefore grant appellant's motion to withdraw as counsel and we stay the proceedings for 90 days to provide plaintiff with ample opportunity to retain new counsel."); *N.M. v. R.G.*, 43 Misc. 3d 289, 978 N.Y.S.2d 802, 807 (Sup. Ct. Richmond Co. 2014) (noting that, upon granting counsel's motion to withdraw, "a thirty day stay was implemented and the submission date of the parties' written summations was adjourned"). Such a stay is particularly necessary here, where the continued representation (and thus any attempt to comply with the March 21 deadline) is likely to violate the Professional Rules.

10. I am also requesting that the requested 30-day stay apply to Mr. Manafort, for reasons of both fairness and judicial economy. First, without revealing privileged or work product material, and unrelated to the merits, the differing approaches to the criminal case between Mr. Manafort and Mr. Gates have affected counsel's ability to investigate the allegations of the complaint on behalf of Mr. Manafort. In addition, the interests of judicial economy would be served by having a single case schedule with common deadlines for both defendants, particularly since there will be at least one motion to dismiss in lieu of answer, that of Mr. Manafort.

11. It would have been my strong preference to have submitted a signed stipulation for substitution of counsel with this application, but as of the finalizing of this Affirmation, Mr. Gates has not responded to our request for his consent to the withdrawal, and my firm and I have made this application as soon as we learned that it needed to be made.

12. Under its engagement letter with Mr. Gates, if Schlam Stone is required to withdraw from representing him, we are still permitted to represent Mr. Manafort, and Mr. Gates has waived any objection to such representation. In addition, since this action is only in its early stages, with Defendants not yet having responded to the complaint, there is no prejudice to Mr. Gates provided he has time to obtain new counsel.

13. No one previously sought this relief from this or any other Court.

14. On the morning of March 5, 2018, my firm informed Mr. Gates by email, and on the morning of March 6, 2018, informed opposing counsel that I or a colleague would be personally appearing in this Court on March 7, 2018 to present this motion, and seeking interim relief.

Dated: New York, New York
March 6, 2018

 / PIW

JEFFREY M. EILENDER