

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

GLOBAL HUB LOGISTICS, et al.,)	
)	
Plaintiffs/Counter-Defendants,)	
)	
v.)	Civ. A. No. 1:12-cv-1350-GBL-IDD
)	
TAMERLANE GLOBAL SERVICES, INC.,)	
)	
Defendant/Counter-Plaintiff.)	

MEMORANDUM IN SUPPORT OF UNOPPOSED MOTION TO WITHDRAW

Troutman Sanders LLP hereby files this Memorandum in Support of its motion, pursuant to Local Rules 7 and 83.1(G) and Federal Rule of Civil Procedure 7, for leave to withdraw as counsel to Defendants/Counter-Plaintiffs Tamerlane Global Services, Inc. (“Tamerlane”) and James O’Brien (“O’Brien”) in this matter. In accordance with Virginia Rule of Professional Conduct 1.16(b), Troutman Sanders LLP submits that the continued representation of Tamerlane has been rendered unreasonably difficult by Tamerlane and O’Brien; the representation has become an unreasonable financial burden to Troutman Sanders LLP; and reasonable warning has been provided to Tamerlane and O’Brien. Tamerlane and O’Brien have substantial outstanding bills to Troutman Sanders LLP,¹ no payment toward the outstanding bills has been made in several months, and the lines of communications between Troutman Sanders LLP and Tamerlane and O’Brien have become significantly strained. Considering the sizeable outstanding fees and

¹ Troutman Sanders LLP is not submitting its bills or fully disclosing the amount of Tamerlane’s and O’Brien’s outstanding and unpaid fees. If the Court requires additional information or documents, Troutman Sanders LLP can make the information available for the Court’s *in camera* review.

the breakdown of the relationship, the engagement has become a considerable and unfair burden upon Troutman Sanders LLP. Undersigned counsel has consulted with counsel for Plaintiffs/Counter-Defendants Global Hub Logistics, and Global Hub Logistics does not oppose this motion. Accordingly, pursuant to Virginia Rule of Professional Conduct 1.16(b) and Local Rule 83.1, the Court should permit Troutman Sanders LLP to withdraw as Tamerlane's and O'Brien's counsel in this matter.

Troutman Sanders LLP was retained by Tamerlane and O'Brien to serve as litigation counsel in this case, Civ. A. No. 1:12-cv-1350-GBL-IDD.² Troutman Sanders LLP fully represented Tamerlane and O'Brien throughout the pretrial motions, discovery, and trial phases of this case. As the Court well knows, the matter proceeded to trial on October 15, 2013 and continued for six days of testimony and several additional days of deliberation by the jury. The trial phase was completed when the jury returned its verdict on October 28, 2013, judgment was entered on that same day, and this Court ruled on and denied Tamerlane's post-trial motions on March 26, 2014. At no point was the scope of Troutman Sanders LLP's representation extended to appellate or other post-judgment representation.

In determining whether to grant a motion to withdraw as counsel, courts in this district apply the Virginia Rules of Professional Conduct. *See Portsmouth Redevelopment and Housing Authority v. BMI Apartments Assocs.*, 851 F. Supp. 775, 782 (E.D. Va. 1994); Local Rule 83.1(I). In addition to governing circumstances requiring an attorney's withdrawal, Virginia Rule of Professional Conduct 1.16(b) also permits withdrawal in certain other situations:

[A] lawyer *may withdraw* from representing a client *if withdrawal can be accomplished without material adverse effect on the interests of the client*, or if:
...

² Tamerlane and O'Brien were represented by other counsel in a previous related litigation in this Court.

- (4) *the client fails substantially to fulfill an obligation to the lawyer regarding the lawyer's services and has been given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled;*
- (5) *the representation will result in an unreasonable financial burden on the lawyer or has been rendered unreasonably difficult by the client;* or
- (6) other good cause for withdrawal exists.

Virginia Rule of Professional Conduct 1.16(b) (emphases added). Withdrawal is appropriate here because there will be no material adverse impact on Tamerlane's and O'Brien's interests if this motion is granted. The trial has concluded and a judgment has been entered. Troutman Sanders LLP has informed Tamerlane and O'Brien of the deadline to appeal and of their option to request the return or provision of any relevant documents, pursuant to Rule 1.16(e). Troutman Sanders LLP has satisfied the conditions of its representation by performing all services for which the firm was retained. Troutman Sanders LLP appropriately advocated on Tamerlane and O'Brien's behalf during the pretrial, discovery, trial and post-trial phases of this case.

Moreover, Troutman Sanders LLP submits that Rule 1.16(b)(4), (5) and (6) are satisfied as well, further supporting its request to withdraw. Tamerlane and O'Brien's bills have been outstanding since October 2013, and continued representation would result in a further unreasonable financial burden on Troutman Sanders LLP. Absent "overreaching on the part of an attorney, contracts for legal services are valid and, when those services have been performed as contemplated in the contract, the attorney is entitled to the fee fixed in the contract." *Portsmouth Redevelopment*, 851 F. Supp. at 783 (quoting *Heinzman v. Fine, Fine, Legum & Fine*, 234 S.E.2d 282, 285 (Va. 1977)). Nonetheless, Tamerlane and O'Brien have refused to satisfy their financial obligations to Troutman Sanders LLP. In similar circumstances, this Court has permitted counsel to withdraw from a representation when a client has failed to pay or that client cut off communications regarding unresolved fee issues. *See id.* (finding outstanding fees of \$220,000 constituted an undue burden on counsel); *see also Calkins v. Pacel Corp.*, 602 F.

Supp. 2d 730, 732-33 (W. D. Va. 2009) (permitting counsel to withdraw due to client's "repeated failures to live up to its financial obligations"). Troutman Sanders LLP has not been able to obtain the position or consent of Tamerlane or O'Brien regarding this motion, despite repeated warnings on March 24, March 31, and April 2 by Troutman Sanders LLP that it intended to seek to withdraw and after several communications during the same time period advising Tamerlane and O'Brien of their rights and Troutman Sanders LLP's obligations. Accordingly, Troutman Sanders LLP respectfully submits that it has shown the significant financial burden that continued representation would cause, its reasonable warnings to the client, and the unreasonably difficult position in which Tamerlane and O'Brien have placed Troutman Sanders LLP. The Court therefore should permit Troutman Sanders LLP leave to withdraw from this matter.

Dated: April 4, 2014

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on April 4, 2014, I filed a copy of the foregoing Memorandum in Support of Unopposed Motion to Withdraw with the Court via the CM/ECF system, which will notify the following counsel of record:

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