

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

EMILY MILLER,

Plaintiff,

v.

Case No: 6:23-cv-1226-RBD-DCI

**HIDDEN OAKS LLC and TIMOTHY
MUCCIANTE,**

Defendants.

ORDER TO SHOW CAUSE

On August 12, 2024, Defendants' counsel filed a motion seeking leave for counsel's law firm (Jimerson Birr, P.A.) to withdraw as counsel for Defendants. Doc. 58. Shortly thereafter, the Court denied that motion and explained that "[t]he Court recognizes appearances and requests to withdraw by lawyers, not law firms." Doc. 59. Then, on August 30, 2024, Defendants' counsel filed the instant amended motion to withdraw as to Charles B. Jimerson, Esq., Stewart J. Dubinsky, Esq., and Natasha V. Fisher, Esq. Doc. 61 (the Motion).

As is customary for the Court whenever withdrawal of counsel would leave a party *pro se*, the Court set an in-person hearing on the Motion for September 18, 2024. Doc. 62. On September 10, 2024, Defendants' counsel filed a motion to reschedule the hearing and requested remote appearance. Doc. 63. The Court granted that motion in part, excusing Mr. Subjinski from the in-person hearing, but made clear that otherwise "the hearing will take place as noticed" with a corporate representative of Defendant Hidden Oaks LLC, Defendant Mucciante, all lawyers seeking to withdraw, and a lawyer for Plaintiff required to be in attendance. Doc. 64.

Then, around 6:45 p.m. on the evening before the hearing, Defendants’ counsel once again filed a motion seeking to reschedule the hearing and/or requesting remote appearance. Doc. 65. In that motion, Defendants’ counsel explains, for the first time, that Ms. Fisher is no longer employed by Jimerson Birr, P.A. and presently resides in New York. *Id.* at 4. Likewise, Defendants’ counsel argues that counsel is located in Jacksonville, Florida “and would need to expend significant round trip travel time to appear physically[.]” *Id.* Contemporaneously, the Court received a *pro se* filing from Defendant Mucciante explaining that he only learned of the Court’s order denying the motion to reschedule on the afternoon of September 17, 2024. Doc. 66 at 1. Defendant Mucciante also provided that he resides in Michigan and would not be able to attend the hearing in person. *Id.*

On September 18, 2024, the Court held the in-person hearing as noticed. No corporate representative, nor Defendant Mucciante, nor any of the attorneys seeking to withdraw as Defendants’ counsel were present—only Plaintiff’s counsel was present. The hearing was noticed on September 6, 2024. Doc. 62. All parties involved had ample time to make arrangements necessary to attend the hearing but elected to not do so. Further, when counsel voluntarily undertook this representation, they knew they resided in Jacksonville and this Court is located in Orlando. Counsel appearing in a case within the Orlando Division of the Middle District of Florida are expected to be ready and able to appear in-person in Orlando for court hearings. Further, by failing to appear at the hearing as required, counsel has unnecessarily required Plaintiff’s counsel to appear at the noticed hearing and incur the costs of that appearance.

Accordingly, it is **ORDERED** that:

1. The Motion to withdraw (Doc. 61) is **DENIED**;
2. The motions to excuse appearance at the hearings (Docs. 65 and 66) are **DENIED**;

3. The Notice of Unavailability (Doc. 69) is **STRICKEN**, as the Rules of this Court do not allow for such a filing; and
4. **on October 10, 2024 at 11:00 a.m. in Courtroom 5C of the United States Courthouse at 401 West Central Boulevard, Orlando, Florida 32801**, a corporate representative of Defendant Hidden Oaks, LLC, Defendant Mucciante, Ms. Fisher, and Mr. Jimerson shall **SHOW CAUSE** as to why they should not be sanctioned for failing to appear at the hearing. Sanctions may include, but are not limited to, the costs incurred by Plaintiff in having counsel appear at the duly noticed hearing.

ORDERED in Orlando, Florida on September 24, 2024.



DANIEL C. IRICK
UNITED STATES MAGISTRATE JUDGE

Copies furnished to:

Counsel of Record
Unrepresented Parties