

UNITED STATES DISTRICT COURT
SOUTHERN DIVISION OF FLORIDA
WEST PALM BEACH DIVISION

CASE NO: 9:23-cv-80820-RLR

BOCA VIEW CONDOMINIUM ASSOCIATION,
INC.,

Plaintiff,

vs.

ELEANOR LEPSALTER and EDWARD
LEPSALTER,

Defendant(s).

**DEFENDANTS' RESPONSE TO DE # 22 (JOHN R. SHEPPARD, ESQ. AND FOWLER,
WHITE, BURNETT, P.A.'S MOTION TO WITHDRAW, AND MOTION FOR
EXTENSION OF TIME):**

The Defendants, ELEANOR LEPSALTER and EDWARD LEPSALTER, by and through their undersigned counsel, hereby file this Response to DE # 22, as follows:

1. On June 26, 2023, Plaintiff filed a Motion for Extension of Time (DE # 18), requesting a fifteen (15) day extension to file a response to the Defendants' pending Rule 12 Motion (which was filed on June 12, 2023 – See DE # 17). Plaintiff's Motion was filed on the final day of the fourteen (14) day response period set forth by Local Rule 7.1(c).
2. Per DE #21 (entered June 27, 2023), the Court granted in part and denied in part Plaintiff's request for extension of time, mandating the filing of a response to DE # 17 by July 5, 2023.
3. On June 29, 2023, Defendants' counsel received a call from a new attorney indicating that their firm would be appearing in this proceeding. The morning of June 30, 2023, your undersigned contacted Plaintiff's current counsel via e-mail advising of this contact, and inquiring if

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Plaintiff's counsel intended to withdraw. Plaintiff's counsel indicated that he did intend to withdraw, and requested another extension of time.

4. Given the three (3) day turnaround time, it is readily evident that Plaintiff's counsel intended to withdraw when DE 18 was filed, and DE 18 was filed in an effort to delay these proceedings and obtain an initial extension where Plaintiff's counsel had no intention of preparing or filing a response to DE # 17 on behalf of the Plaintiff.
5. As a courtesy, and even though Plaintiff's new counsel has not yet filed an appearance, your undersigned sent email correspondence the morning of June 30, 2023, advising that this Court had already entered an Order granting Plaintiff an extension of time to respond to DE # 17, and that the response was due on July 15, 2023. See Exhibit "1" attached hereto.
6. Plaintiff should not be allowed to delay adjudication of Defendants' pending Rule 12 motion simply by jumping back and forth between attorneys of record. Plaintiff's counsel filed Plaintiff's Complaint as a Verified one. Plaintiff has already had the benefit of the full 14 day response period provided for under local Rule 7.1(c), as well as an extension of time granted by the Court. Plaintiff should not be granted further extensions which are only being sought for purposes of delay.
7. Finally, your undersigned inquired if Plaintiff's current counsel would be withdrawing, so as to know to whom future communications about this matter should be addressed. However, your undersigned did not "consent" to the withdrawal, as noted in Plaintiff's filed DE # 22. See Exhibit "2" attached hereto. Though your undersigned and the Defendants have no standing to interfere with Plaintiff's request for leave of Court to withdraw as Plaintiff's counsel, a Rule 11 Motion was served upon Plaintiff and Plaintiff's current counsel, but has not yet been filed as the 21 day safe harbor period has not yet passed. This is being brought to

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the Court's attention so that Plaintiff's counsel does not seek to withdraw just before the end of the 21 day safe harbor period (which shall run on July 3, 2023) and thereafter seek to assert that the Court discharged or absolved Plaintiff's counsel of any responsibility under said Motion for the pleading which Plaintiff's counsel filed on behalf of the Plaintiff.

WHEREFORE Defendants request that this court deny Plaintiff's request for an additional extension of time to respond to DE # 17, and the Court grant the parties such other relief as the Court deems just and proper.

Respectfully submitted this 30th day of June, 2023.

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By: *Christopher S. Salivar*
Christopher S. Salivar
Florida bar No.: 57031

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 30th day of June, 2023, that a true and correct copy of the foregoing has been filed through the Court's CM/ECF-filing portal and that a true copy has been served through the portal upon all counsel of record in this action.

By: *Christopher S. Salivar*
Christopher S. Salivar
Florida bar No.: 57031