

IN THE CIRCUIT COURT FOR THE 11TH
JUDICIAL CIRCUIT IN AND FOR MIAMI-
DADE COUNTY, FLORIDA

ATLANTIC LENDING, L.L.C. as to an
undivided 50% interest and STEPHEN
ZARON, M.D. et al., as to an undivided
50% interest,

GENERAL JURISDICTION DIVISION

CASE NO. 04-7035-CA-24

Plaintiffs,

vs.

FANTASY OF THE OCEAN, L.L.C. etc.,

Defendants.

**MOTION TO REQUIRE GABRIELLA D'ALEMBERTE TO DISCLOSE TO HER PUTATIVE
CLIENTS IN THIS MATTER AND TO THE COURT WHICH PARTIES SHE REPRESENTS**

Plaintiff, Atlantic Lending, LLC, through counsel, hereby files its Motion to Require Gabriella D'alemberte to Disclose to Her Putative Clients in this Matter and to the Court Which Parties She Represents (the "Motion"), and states:

1. Gabriella D'Alemberte has appeared on behalf of the individual Plaintiffs in this action even though she has admitted that said appearance was done in error and that she rather only intended to appear on behalf of Berman Mortgage Corporation (a company that had been run by her husband, Dana Berman, and placed into receivership because of financial misconduct - - but that is neither a plaintiff nor defendant in this action).

2. After committing to withdraw from these proceedings on several occasions but not doing so, Ms. D'Alemberte ultimately filed an inaccurate motion to withdraw which was not properly noticed for hearing and did not make the Court's calendar. When this was brought to Ms. D'Alemberte's attention, she agreed upon a date that was mutually convenient to her and undersigned counsel for rescheduling her motion to withdraw February 11, 2009, and she re-noticed her motion to be heard on that date.

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3. Ms. D'Alemberte has been advised that her motion to withdraw is not only substantively flawed, but also procedurally defective, in that at best it provides notice to only one of the numerous putative clients on whose behalf she has appeared in this action.¹

4. Ms. D'Alemberte has expressed her intent to continue to delay her withdrawal from this case, even though her appearance was and remains improper, and she has demonstrated her intent to improperly use her status as counsel of record in this case (along with the existence of a receivership brought about because of her husband's misconduct) so as to benefit her husband and frustrate the orderly process of the litigation before this Court.

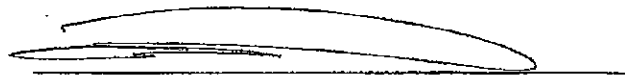
5. It is improper for an attorney to appear on behalf of clients who do not know they are being represented, and Ms. D'Alemberte should at this juncture be required to provide notification to the court and to her putative clients of the existence of her representation and of her efforts to withdraw, such that she may be held accountable for her actions in this case until, at a minimum, the time she obtains an order providing her leave to withdraw.

WHEREFORE, due to the foregoing it is requested that this Court provide the relief sought herein.

¹ In Ms. D'Alemberte's Motion to Withdraw, she purports to have served a copy of her Motion on one of the plaintiffs, Stephen Zaron, M.D., at his last known address, but she does not certify this in her certificate of service. Moreover, there is no indication anywhere that she served the Notice of Hearing on any of her putative clients. Tellingly, however, Ms. D'Alemberte *does* indicate on both her Motion and Notice of Hearing that she served a copy of same on her husband, Dana Berman, whose representation by her reveals an obvious conflict of interest.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was telefaxed and mailed this 29th day of January, 2009 to: **Oscar Sanchez, Esquire**, Akerman Senterfitt, One Southeast Third Avenue, 28th Floor, Miami, Florida 33131; **Gabrielle D'Alemberte, Esquire**, The Law Offices of Robert L. Parks, 2121 Ponce de Leon Blvd., Ste 505, Coral Gables, Florida 33134; and by U.S. Mail to: **KPKB Registered Agents, Inc.**, f/k/a Miami Center Registered Agents, LLC, registered agents for Fantasy of the Ocean, LLC, 201 South Biscayne Boulevard, Suite 1700, Miami, Florida 33131.



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