

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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CHRISTINE C. ANDERSON,

Plaintiff,

- against -

**THE STATE OF NEW YORK, THE
OFFICE OF COURT ADMINISTRATION
OF THE UNIFIED COURT SYSTEM,
THOMAS J. CAHILL, in his official and
individual capacity, SHERRY K. COHEN,
in her official and individual capacity, and
DAVID SPOKONY, in his official and
individual capacity,**

Defendants.

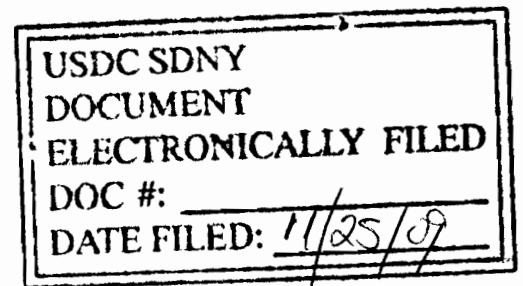
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SHIRA A. SCHEINDLIN, U.S.D.J.:

On October 13, 2009, the issues in the above-captioned action were tried before this Court and a jury. At the conclusion of the trial on October 29, 2009, the jury returned a verdict in favor of the defendants. On October 30, 2009, final judgment was entered, the claims dismissed, and the case closed. On November 16, 2009, plaintiff, proceeding pro se, filed a motion and supporting affirmation for a new trial pursuant to Federal Rule of Civil Procedure 59.

“[T]he rights of self-representation and representation by counsel

ORDER

07 Civ. 9599 (SAS)



‘cannot be both exercised at the same time.’ . . . Thus, a party seeking to assert [her] statutory right of self-representation must clearly and unequivocally discharge any lawyer previously retained.”¹ Plaintiff has been represented by counsel throughout the entirety of this action and no steps have been taken by plaintiff or any of her three attorneys to relieve these attorneys in accordance with the requisite procedure.² Therefore, because plaintiff is represented by counsel she has no right to file this motion or affirmation. A district court enjoys wide latitude in managing its docket and can require represented parties to present motions through counsel.³

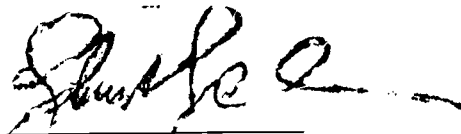
Accordingly, plaintiff’s pro se motion and affirmation are hereby rejected. The motion and affirmation are stricken as improperly before the Court.

¹ *O’Reilly v. New York Times Co.*, 692 F.2d 863, 868 (2d Cir. 1982) (quoting *United States v. Mitchell*, 137 F.2d 1006, 1010 (2d Cir. 1943)) (citations omitted). *Accord Cheung v. Youth Orchestra Foundation of Buffalo, Inc.*, 906 F.2d 59, 61 (2d Cir. 1990).

² *See* S.D.N.Y. & E.D.N.Y. L.R. 1.4. (“An attorney who has appeared as attorney of record for a party may be relieved or displaced only by order of the court and may not withdraw from a case without leave of the court granted by order.”).

³ *See Mitchell v. Senkowski*, 489 F. Supp. 2d 147, 149 (N.D.N.Y. 2006) (holding that plaintiff in civil rights action could not file pro se motion to vacate judgment after attorney entered appearance on his behalf where attorney had not been terminated by plaintiff and had not withdrawn from the case).

SO ORDERED:

A handwritten signature in black ink, appearing to read 'Shira A. Scheindlin', written over a horizontal line.

Shira A. Scheindlin
U.S.D.J.

Dated: New York, New York
November 25, 2009

- Appearances -

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