

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF VERMONT**

JANET JENKINS, et al.,

Plaintiffs,

v.

No. 2:12-cv-184-WKS

KENNETH L. MILLER, et al.,

Defendants.

**PLAINTIFF JANET JENKINS’S RESPONSE TO DEFENDANTS PHILIP ZODHIATES,  
VICTORIA HYDEN, AND RESPONSE UNLIMITED, INC.’S MOTION FOR  
EXTENSION OF TIME TO SECURE SUCCESSOR COUNSEL**

The motion for an extension of time to secure successor counsel filed by Defendant Philip Zodhiates for himself and for Defendants Victoria Hyden and Response Unlimited, Inc. (“RUL”) (collectively, “RUL Defendants”)<sup>1</sup> further supports Plaintiff Janet Jenkins’s motion for an order to show cause. *See* Pl. Janet Jenkins’s Mot. for an Order to Show Cause and Notice of RUL Defs.’ Noncompliance with [474] the Court’s Order to Obtain New Counsel by April 15, 2020 (“Mot. for an Order to Show Cause”), ECF 499. Plaintiff defers to the Court on whether to grant any or all of the RUL Defendants more time to obtain new counsel. *See id.* at 6.

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<sup>1</sup> Plaintiff again doubts that it is appropriate for Zodhiates, who is not an attorney, to file motions for Hyden. *See, e.g.*, L.R. 11(a)(3) (requiring a party appearing *pro se* to “not authorize another person to appear on his or her behalf”). Plaintiffs have assumed that it is appropriate for RUL to act *pro se* through an officer of the corporation for the limited purpose of seeking additional time to obtain new counsel in order to comply with Local Rule 11(b), which prevents corporations from appearing *pro se*. *See* Pls.’ Resp. to RUL Defs.’ Mot. to Stay Proceedings and Extension of Time to Secure Successor Counsel at 1 n.1, ECF 459. Zodhiates still is listed as an officer of RUL despite his current incarceration. *See Response Unlimited, Inc. Entity Information*, State Corp. Comm’n, <https://cis.scc.virginia.gov/EntitySearch/BusinessInformation?businessId=61480> (last visited Apr. 30, 2020).

As expected, the RUL Defendants cite Zodhiates's incarceration and the COVID-19 pandemic in an attempt to justify a further extension of time to obtain new counsel. *See id.* at 5 & n.3. According to their motion, Zodhiates does not have "access to the law library, legal research, legal mail department, typing, [or] copies, and all visitation has been suspended." They also cite the pandemic-related closures of "[b]usinesses, courts, and law firms."

Plaintiff does not understand how the closure of businesses or courts would affect their ability to obtain new counsel. In any event, many, if not all, law firms (and courts, for what it is worth) are *not* closed but instead working remotely. The RUL Defendants provide nary one example of their efforts to contact a law firm that is now closed because of the pandemic.

The RUL Defendants do not provide a single detail of Hyden's and RUL's independent efforts thus far to obtain new counsel from outside of prison or an explanation of how the pandemic has affected their abilities to communicate with potential counsel. Instead, they further "suggest[] it is Zodhiates who is spearheading from prison the effort to find the trio new counsel." Mot. for an Order to Show Cause 5 (citing Mot. to Stay Proceedings and Extension of Time to Secure Successor Counsel, ECF 458). Even then, they provide no detail of Zodhiates's efforts from prison, especially in the 78 days before the Bureau of Prisons began responding to the pandemic. *See id.* at 5 n.3.

Plaintiff respectfully reiterates her request that the Court "demand from each of the RUL Defendants a detailed accounting of their own efforts to obtain new counsel and an explanation of why neither Hyden nor RUL has led the effort to obtain new counsel for the related parties." *Id.* at 5. Given that the May 15, 2020 deadline for the parties to submit a proposed modified discovery schedule is just two weeks away, Plaintiff now proposes that the Court stay or modify

that deadline while considering Plaintiff's motion for an order to show cause and the RUL Defendants' pending motion for an extension of time to obtain new counsel.<sup>2</sup>

Respectfully submitted.

May 1, 2020

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<sup>2</sup> Plaintiff has contemporaneously filed a motion seeking this relief.

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**CERTIFICATE OF SERVICE**

I hereby certify that, on this date, the foregoing document was served on the following counsel of record and unrepresented parties through the Court's CM/ECF system:

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May 1, 2020

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