

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS

SUPERIOR COURT DEPARTMENT
DOCKET NO.: 2484CV02931-H

DANY ABOUELKHIER,	)
Plaintiff / Defendant-in-Counterclaim,	)
	)
v.	)
	)
VIRTUAL FULFILLMENT CENTER, LLC,	)
MOHAMED KASSEM,	)
OMAR NEAMATALLA,	)
MOHAMMED ALI, and	)
AHMED KASEM,	)
Defendants / Plaintiffs-in-Counterclaim.	)

**DEFENDANTS' / PLAINTIFFS'-IN-COUNTERCLAIM OPPOSITION TO
PLAINTIFF'S / DEFENDANT'S-IN-COUNTERCLAIM
MOTION TO DISQUALIFY ATTORNEY ALEXANDER W. LEVINE**

NOW COME the Defendants / Plaintiffs-in-Counterclaim Virtual Fulfillment Center, LLC ("VFC"), Mohamed Kassem ("Mr. Kassem"), Omar Neamatalla ("Mr. Neamatalla"), Mohamed Ali ("Mr. Ali"), and Ahmed Kasem ("Mr. Kasem") (collectively referred to as the "VFC Parties"), and hereby oppose the Plaintiff / Defendant-in-Counterclaim Dany Abouelkhier's ("Mr. Abouelkhier") Motion to Disqualify Attorney Alexander W. Levine.

The VFC Parties submit the accompanying Affidavit of Attorney Alexander W. Levine, and further argue and state as follows:

ARGUMENT

INTRODUCTION

This matter concerns multiple disputes regarding a domestic limited liability company, VFC (a food business exclusively for take-out / delivery service), that was originally filed by Mr. Abouelkhier in November 2024 seeking a TRO, which was denied. On November 14, 2024,

Attorney Alexander W. Levine filed an Appearance for all named Defendants. In opposition to the TRO, the individual Defendants filed Affidavits asserting, among other things, that the individual Defendants make up all the managers and members of VFC. The Defendants then filed Counterclaims. Mr. Abouelkhier then filed a Motion to Strike Counterclaims, a Motion to Dismiss the Counterclaims, and now a Motion to Disqualify Counsel.

Mr. Abouelkhier's Motion to Disqualify should be denied because (1) it is untimely in accordance with Superior Court Rule 3; (2) the Motion is devoid of any actionable basis for disqualification.

I. THE MOTION TO DISQUALIFY IS UNTIMELY IN ACCORDANCE WITH SUPERIOR COURT RULE 3.

Superior Court Rule 3 requires any objection of the right of an attorney to appear for any party to be brought within ten (10) days. Mr. Abouelkhier has brought such a motion over a year after an appearance was filed demonstrating the joint representation of all named Defendants / Plaintiffs-in-Counterclaim. Massachusetts Superior Court Rule 3, provides, in part: "[t]he right of an attorney to appear for any party shall not be questioned by the opposite party, unless the objection be taken in writing within ten days after the appearance of such attorney, but the court may permit the objection to be taken later." See Mass. Sup. Ct. Rule 3. This rule has the force of law and this Court need not entertain a later objection. See Masiello v. Perini Corp., 394 Mass. 842, 850 (1985) (affirming denial of motion to disqualify brought, despite ample notice, as an "eleventh hour maneuver" and noting that "Court resources are sorely taxed by the increasing use of disqualification motions as harassment and dilatory tactics").

The untimely nature of the Motion is significantly prejudicial to the VFC Parties, and has been made a year past the time period set forth in Superior Court Rule 3, and therefore should be denied.

II. THE MOTION IS DEVIOD OF ANY ACTIONABLE BASIS FOR DISQUALIFICATION.

Mr. Abouelkhier's Motion to Disqualify does not articulate any legitimate actionable basis for disqualification. To the contrary, Mass. R. Prof. C. 1.13(g) expressly authorizes an attorney representing a limited liability company to also represent its individual members. Mass. R. Prof. C. 1.13(g) states in relevant part as follows: “(g) A lawyer representing an organization may also represent any of its directors, officers, employees, members, shareholders or other constituents, subject to the provisions of Rule 1.7. If the organization's consent to the dual representation is required by Rule 1.7, the consent shall be given by an appropriate official of the organization other than the individual who is to be represented, or by the shareholders.” To the extent the “shareholders” or equity Members of VFC are required to authorize the dual representation, M.G.L. c. 156C, §21(d) states: “(d) If an operating agreement does not provide for the voting rights of members, the decision of members who own more than fifty percent of the unreturned contributions to the limited liability company determined in accordance with section twenty-nine shall be controlling.” Such procedures occurred over a year ago. All managers and members of VFC authorized the dual representation.

Moreover, Superior Court Rule 3 further states “[w]hen the authority of any attorney to appear for any party is demanded, if such attorney declares that he has been duly authorized to appear, by an application made directly to him by such party, or by some person whom he believes to have been authorized to employ him, such declaration shall be evidence of such authority.” As such, the attached Affidavit of Attorney Alexander W. Levine is conclusive as to authorization to represent all named Defendants / Plaintiff-in-Counterclaim. Before the filing of an Appearance in this action, all Defendants / Plaintiffs-in-Counterclaim authorized the representation. Affidavit of Attorney Alexander W. Levine, ¶2. There is also nothing substantive

that would require me to be a necessary witness to this case, and such a prohibition in Mass. R. Prof. Conduct 3.7 is only from advocating at Trial.

As such, there is no factual basis for a disqualification of counsel.

CONCLUSION

WHEREFORE, the Defendants / Plaintiffs-in-Counterclaim, the VFC Parties, request Mr. Abouelkhier's Motion to Disqualify Attorney Alexander W. Levine be denied.

Defendants / Plaintiffs-in-Counterclaim,
VIRTUAL FULFILLMENT CENTER, LLC,
MOHAMED KASSEM,
OMAR NEAMATALLA,
MOHAMMED ALI, and
AHMED KASEM

By counsel,

/s/ Alexander W. Levine

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Dated: December 18, 2025

CERTIFICATE OF SERVICE

I, Alexander W. Levine, hereby certify that on December 18, 2025, I caused the foregoing to be served upon Mr. Abouelkhier via e-mail.

/s/ Alexander W. Levine

Alexander W. Levine