

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA**

UMG RECORDINGS, INC., *et al.*,

Plaintiffs,

v.

KURBANOV, *et al.*,

Defendants.

Case No. 1:18-cv-00957-CMH-TCB

MEMORANDUM IN SUPPORT OF MOTION TO WITHDRAW

Pursuant to Local Civil Rule 83.1(G), Val Gurvits, Matthew Shayefar, Evan Fray-Witzer, and Jeffrey Geiger, counsel for Defendant Tofig Kurbanov ("Counsel for Defendant"), respectfully request this Court grant their "Motion To Withdraw as Counsel for Tofig Kurbanov." In support of their Motion, Counsel for Defendant state as follows:

INTRODUCTION

A lawyer may seek permission to withdraw in circumstances in which a client fails to substantially fulfill an obligation owed to lawyer regarding the lawyer's services, including with respect to the duty to communicate. *See, e.g., Virginia Rules of Professional Conduct* 1.16(b). Communication from Mr. Kurbanov to his counsel is an obligation addressed by the Rule and common sense. In order to progress in any litigation, communication between lawyer and client is key. Counsel is seeking leave to withdraw as counsel of record for Mr. Kurbanov because he and his counsel have been unable to communicate in an effective manner.

Further, this Court has entered orders [Docs. 97 & 105] related to discovery matters for which there has not been compliance by Mr. Kurbanov. Absent necessary cooperation and communication, the attorney-client relationship cannot function in any meaningful manner.

ARGUMENT

As this Court is aware, Defendant Tofig Kurbanov is a resident of Rostov-on-Don in Russia, where he was born and where he has lived his entire life. The present action arises out of Mr. Kurbanov's creation and operation of two websites, FLVTO.biz and 2conv.com, which he created in Russia and which he has operated (at all times) from Russia.

At the start of the present litigation, Mr. Kurbanov, through counsel, moved for dismissal of the present action based on a lack of personal jurisdiction. This Court allowed that motion, but the Court's decision was reversed and remanded on appeal by the Fourth Circuit Court of Appeals.

Despite the Fourth Circuit's ruling, Mr. Kurbanov has never believed that he is properly subject to jurisdiction in Virginia or the United States. As a result of Mr. Kurbanov's firm conviction that he is not subject to personal jurisdiction in this Court, he has been reluctant to participate in the present proceedings and has, indeed, declined to provide discovery as requested by Plaintiffs and as ordered by this Court.

Despite the efforts of Counsel for Defendant, Mr. Kurbanov has made clear that he does not intend to cooperate further with the present litigation or counsel's attempts to mount an effective defense on his behalf. Mr. Kurbanov has indicated that he will not provide Counsel for Defendant with any additional discovery and will not sit for his previously-noticed deposition. As such, Counsel for Defendant is unable to meaningfully participate in the litigation process and as a result, there has been a breakdown in the attorney-client relationship that makes it impossible for

Counsel for Defendant to properly represent Mr. Kurbanov's interests in the present litigation or for counsel to meet their obligations to Plaintiffs or this Court going-forward.

Mr. Kurbanov has been fully advised that Counsel for Defendant intend to file the present motion and has informed counsel that he does not intend to oppose the present motion. Mr. Kurbanov has also been fully informed as to his ongoing obligations related to the litigation. Mr. Kurbanov has not indicated if he intends to proceed on a *pro se* basis if the present motion is allowed or, indeed, if he will participate in the present litigation in any manner.

Contemporaneous with the filing of the present motion, Mr. Kurbanov is being served by email with Counsel for Defendants' motion and the present memorandum in support.

Prior to the filing of the present motion, Counsel for Defendant conferred with Plaintiffs' counsel. Plaintiffs' counsel has not indicated whether they intend to oppose the present motion. The allowance of the present motion, however, will not prejudice Plaintiffs: if the present motion is allowed, Counsel for Defendant shall provide Plaintiff's counsel with the email address and telephone number that they have used to communicate with Mr. Kurbanov. To the extent that there are existing outstanding discovery requests, Plaintiffs will still not be prejudiced by the withdrawal of counsel inasmuch as counsel cannot respond to those requests without the cooperation of Mr. Kurbanov, which it has not received and does not expect to receive.

CONCLUSION

Accordingly, and for the reasons stated hereinabove, Counsel for Defendant respectfully request that the Court allow their motion to withdraw as counsel for Mr. Kurbanov.

Dated: July 23, 2021

Respectfully Submitted:

/s/ Jeffrey H. Geiger

Jeffrey H. Geiger (VSB No. 40163)
SANDS ANDERSON PC
1111 E. Main Street, Suite 2400
Bank of America Plaza
P.O. Box 1998 (23218)
Richmond, Virginia 23218-1998
Telephone: (804) 783-7248
Facsimile: (804) 783-7291
jgeiger@sandsanderson.com

/s/ Valentin Gurvits

Valentin D. Gurvits (*pro hac vice*)
Matthew Shayefar (*pro hac vice*)
BOSTON LAW GROUP, PC
825 Beacon Street, Suite 20
Newton Centre, Massachusetts 02459
Telephone: 617-928-1804
Facsimile: 617-928-1802
vgurvits@bostonlawgroup.com
matt@bostonlawgroup.com

/s/ Evan Fray-Witzer

Evan Fray-Witzer (*pro hac vice*)
CIAMPA FRAY-WITZER, LLP
20 Park Plaza, Suite 505
Boston, Massachusetts 02116
Telephone: 617-426-0000
Facsimile: 617-423-4855
Evan@CFWLegal.com

Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on the 23rd day of July, 2021, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing to the following:

Scott A. Zebrak, Esquire
Matthew J. Oppenheim, Esquire
Lucy Grace D. Noyola, Esquire
Kellyn M. Goler, Esquire
Oppenheim + Zebrak, LLP
4530 Wisconsin Avenue, NW, 5th Floor
Washington, DC 20016
Email: scott@oandzlaw.com
matt@oandzlaw.com
lucy@oandzlaw.com
kellyn@oandzlaw.com

Counsel for Plaintiffs

In addition, I hereby certify that on the 23rd day of July, 2021, an electronic copy of this document has been served on Mr. Kurbanov via email.

/s/ Jeffrey H. Geiger
Jeffrey H. Geiger