

**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK**

**DEBORAH MCCABE,**  
*on behalf of herself and others similarly situated,*

**Plaintiff,**

**- against -**

**HARRY'S NURSES REGISTRY, INC., and  
HARRY DORVILIER,**

**Defendants.**

**Index No: 153822/2020**

**AFFIRMATION OF CLARA LAM, ESQ. IN SUPPORT OF  
BROWN KWON & LAM, LLP'S MOTION TO WITHDRAW AS COUNSEL  
FOR PLAINTIFF DEBORAH MCCABE PURSUANT TO CPLR § 321(b)(2)**

Clara Lam, Esq., an attorney duly admitted to practice in the Courts of the State of New York, hereby affirms pursuant to § 2106 of the New York Civil Practice Law and Rules ("CPLR") and subject to penalties of perjury that the following is true and correct:

1. I am a partner of the firm of Brown Kwon & Lam, LLP ("BKL"), counsel for Plaintiff, DEBORAH MCCABE ("Plaintiff" or "Ms. McCabe"), in the above-captioned matter, and as such, I am fully familiar with all matters contained in this Affirmation as they pertain to this motion, as well as all facts and circumstances in this proceeding.

2. I submit this Affirmation pursuant to CPLR § 321(b)(2), seeking an order: (i) granting affiant Clara Lam, Esq. and BKL to withdraw as counsel for Plaintiff DEBORAH MCCABE, (ii) staying the proceedings for a period of ninety (90) days pending substitution of new counsel for Plaintiff DEBORAH MCCABE, (iii) extending the time for Plaintiff DEBORAH MCCABE to move for default judgment against Defendants for a period of ninety (90) days from

the date of the Order to Show Cause; and (iv) granting such other and further relief as this Court deems necessary and proper.

3. This is an application by counsel of record for Brown Kwon & Lam, LLP to be relieved from representation pursuant to CPLR § 321(b)(2).

4. Plaintiff filed its Complaint on June 2, 2020.

5. Defendants HARRY'S NURSES REGISTRY INC. and HARRY DORVILIER (together, the "Defendants") were served on August 12, 2020, and their Answer was due on or about September 1, 2020.

6. Defendants have yet to provide a responsive pleading or to file an appearance in the herein matter.

7. On March 9, 2021, I called Plaintiff to discuss finalizing the draft of her affidavit in support of Plaintiff's Motion for Default Judgment against Defendants. Ms. McCabe answered the telephone call and informed me that she was busy at the moment. Following the telephone call, I emailed Ms. McCabe to contact me at her earliest convenience regarding her case. *See Exhibit A.*

8. On March 9, 2021, Ms. McCabe returned my telephone call and we spoke for approximately twenty (20) minutes, reviewing and revising the draft of her affidavit. Following the telephone call, on March 9, 2021, I emailed Ms. McCabe a revised draft of her affidavit for her review. *See Exhibit A.*

9. Thereafter, I emailed Ms. McCabe on March 18, 2021, April 15, 2021, and on April 22, 2021 to follow-up on her revisions to the draft of her affidavit. *See Exhibit A.* In addition to these emails, I left her a voicemail on April 15, 2021 and April 16, 2021 to return my telephone call regarding her pending lawsuit as she did not pick up any of the telephone calls. Furthermore,

I text messaged Ms. McCabe on April 19, 2021 and April 22, 2021, to contact me regarding her lawsuit. In the text message chain, the iMessage chat indicated that Ms. McCabe read the most recent message from April 22, 2021, on April 23, 2021. *See Exhibit B.*

10. On April 22, 2021, the attached letter as **Exhibit C** was mailed to Ms. McCabe via Certified Mail with Return Receipt. The text message and email sent to Ms. McCabe on April 22, 2021 also requested that Ms. McCabe contact our firm by Friday, April 30, 2021, otherwise we would terminate our attorney-client relationship and have to move to withdraw as her counsel. *See Exhibits A-B.*

11. Subsequent to these attempts, BKL called Ms. McCabe on May 4, 2021, and again on May 10, 2021. Ms. McCabe did not pick up any of these telephone calls.

12. As of the date of the herein affirmation, Ms. McCabe has still not answered any of our attempts to contact her.

13. As a result, BKL cannot effectively represent Plaintiff herein as BKL cannot reach Plaintiff to prosecute her lawsuit.

#### **IN SUPPORT OF THE MOTION**

14. In light of the foregoing, Rule 1.16(c)(7) of the Rules of Professional Conduct provides in pertinent part as follows: “[A] lawyer may withdraw from representing a client when . . . the client fails to cooperate in the representation or otherwise renders the representation unreasonably difficult for the lawyer to carry out employment effectively.”

15. In light of Ms. McCabe’s refusal to respond to BKL’s attempts to prosecute her case, BKL respectfully seeks leave, pursuant to CPLR § 321(b)(2), to withdraw as counsel of record for Plaintiff DEBORAH MCCABE in this action.

16. On the motion, the attorney is required to show good cause and reasonable notice before he or she will be permitted to terminate the attorney-client relationship. What constitutes good cause is not an objective determination, but rather lies within the sound discretion of the trial court. By way of example, it may be irreconcilable differences between the attorney and the client with respect to the proper course to be pursued in litigation, a failure to cooperate and a “failure to remain in contact with the . . . law firm or to respond to any of its correspondence.” *Tartaglione v. Tiffany*, 280 A.D.2d 543 (2d Dept 2001); *see also Bok v. Werner*, 9 A.D.3d 318, 318 (1st Dept)(finding that “plaintiff[]’s failure to respond to any communication from counsel, made it unreasonably difficult for appellant to represent him effectively” and granting counsel leave to withdraw their representation of the plaintiff).

17. In the process of finalizing Ms. McCabe’s affidavit to be signed and notarized, the last and most pertinent piece of Plaintiff’s Motion for Default Judgment against Defendants, BKL made multiple attempts to contact Ms. McCabe, all of which went unanswered.

18. The deadline for Ms. McCabe to move for default judgment is approaching.

19. If this instant motion to withdraw is granted, we respectfully request that all proceedings be stayed for a period of ninety (90) days pending substitution of new counsel for Ms. McCabe and that the deadline to file for default judgment be extended accordingly for a period of ninety (90) days from the date of the Order to Show Cause.

20. Accordingly, it is respectfully submitted that this Court grant the within motion, brought by Order to Show Cause, and grant Clara Lam, Esq. and Brown Kwon & Lam, LLP leave to withdraw as counsel for Plaintiff DEBORAH MCCABE.

21. To the best of my knowledge, information and belief, formed after an inquiry reasonable under the circumstances, the presentation of the paper or the contentions therein are not frivolous as defined in subsection (c) of 22 NYCRR 130 1.1.

22. No prior requests have been made for the same or similar relief.

Dated: New York, New York  
May 11, 2021

**BROWN KWON & LAM, LLP**



By: \_\_\_\_\_

Clara Lam, Esq.  
521 Fifth Avenue, 17<sup>th</sup> Floor  
New York, NY 10175  
Tel.: (718) 971-0326  
Fax: (718) 795-1642  
[clam@bklawyers.com](mailto:clam@bklawyers.com)  
*Attorneys for Plaintiff*

**FILED: NEW YORK COUNTY CLERK 05/11/2021 02:15 PM**

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RECEIVED NYSCEF: 05/11/2021

Exhibit A

**Fw: Harry's Nurses Registry**

Clara Lam <clam@bkllawyers.com>

Thu 4/22/2021 2:29 PM

To: [REDACTED]@gmail.com <[REDACTED]@gmail.com>

2 attachments (186 KB)

Harry's - Motion for Default - Affidavit.docx;

153822 2020 Deborah McCabe v Deborah McCabe SUMMONS COMPLAINT 1.pdf;

Deborah,

I have made multiple attempts to contact you regarding your case but have not heard back from you.

[REDACTED]

If we do not hear from you by **Friday, April 30, 2021**, we will terminate our attorney-client relationship due to failure to communicate and move to withdraw as your attorney from your case.

[REDACTED]

[REDACTED]

[REDACTED]

Sincerely,  
**Clara Lam, Esq.**  
Brown Kwon & Lam, LLP  
521 Fifth Avenue, 17th Floor  
New York, NY 10175

Cell: [REDACTED]

Tel.: (718) 971-0326

Fax: (718) 795-1642

[www.bkllawyers.com](http://www.bkllawyers.com)

**- Please note our new address**

**From:** Clara Lam <clam@bkllawyers.com>

**Sent:** Thursday, April 15, 2021 5:10 PM

**To:** [REDACTED]@gmail.com <[REDACTED]@gmail.com>

**Subject:** Re: Harry's Nurses Registry

Deborah,

I just left a voicemail for you regarding the below email. I still have not heard back from you and it is really important for you to confirm the information, so that we can finalize and file your motion by the end of the month. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Thank you.

Sincerely,

**Clara Lam, Esq.**

Brown Kwon & Lam, LLP

521 Fifth Avenue, 17th Floor

New York, NY 10175

Cell: [REDACTED]

Tel.: (718) 971-0326

Fax: (718) 795-1642

[www.bkllawyers.com](http://www.bkllawyers.com)

**- Please note our new address**

**From:** Clara Lam <clam@bkllawyers.com>

**Sent:** Thursday, March 18, 2021 3:44 PM



To: [REDACTED]@gmail.com <[REDACTED]@gmail.com>  
Subject: Re: Harry's Nurses Registry

Deborah,

Following up on the below email—I reattached the affidavit for your review. Please review and advise if anything is incorrect, so that I can make the necessary corrections before you sign and notarize.

[REDACTED]

If you have any questions, please let me know. Thank you.

Sincerely,  
**Clara Lam, Esq.**  
Brown Kwon & Lam, LLP  
521 Fifth Avenue, 17th Floor  
New York, NY 10175  
Cell: [REDACTED]  
Tel.: (718) 971-0326  
Fax: (718) 795-1642  
[www.bkllawyers.com](http://www.bkllawyers.com)  
**- Please note our new address**

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**From:** Clara Lam <clam@bkllawyers.com>  
**Sent:** Tuesday, March 9, 2021 8:50 PM  
**To:** [REDACTED]@gmail.com <[REDACTED]@gmail.com>  
**Subject:** Re: Harry's Nurses Registry

Deborah,

As discussed, see attached for the filed Complaint from last year and a draft of the affidavit for your Motion for Default Judgment. I will need you to sign and notarize it.

[REDACTED]

Please also make sure that all of the other information on the affidavit is correct. If anything is incorrect, please let me know so that I can change it. Thank you.

Sincerely,  
**Clara Lam, Esq.**  
Brown Kwon & Lam, LLP  
521 Fifth Avenue, 17th Floor  
New York, NY 10175  
Cell: [REDACTED]  
Tel.: (718) 971-0326  
Fax: (718) 795-1642  
[www.bkllawyers.com](http://www.bkllawyers.com)  
**- Please note our new address**

---

**From:** Clara Lam  
**Sent:** Tuesday, March 9, 2021 8:20 PM  
**To:** [REDACTED]@gmail.com <[REDACTED]@gmail.com>  
**Subject:** Harry's Nurses Registry

Deborah,

At your earliest convenience, can you please give me a call regarding your Harry's Nurses Registry lawsuit. You can reach me on my cell at [REDACTED]. Thank you.

Regards,  
**Clara Lam, Esq.**  
Brown Kwon & Lam, LLP  
521 Fifth Avenue, 17th Floor  
New York, NY 10175  
Cell: [REDACTED]  
Tel.: (718) 971-0326  
Fax: (718) 795-1642  
[www.bkllawyers.com](http://www.bkllawyers.com)  
**- Please note our new address**

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Exhibit B



Deborah >

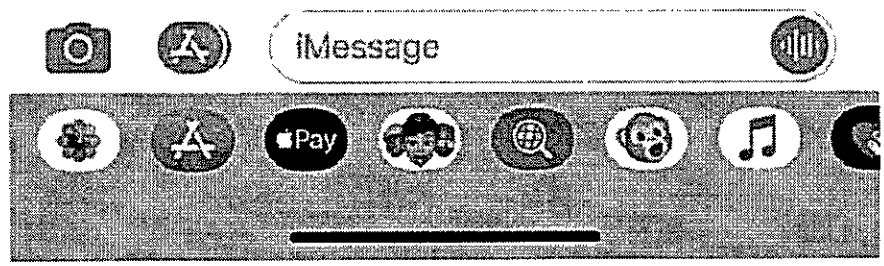
your opportunity to recover anything  
When you have a chance, please call  
me.

Thu, Apr 22, 1:49 PM

Deborah, please contact me as soon  
as possible regarding your case as  
the deadline to move for a default  
judgment is approaching [REDACTED]  
[REDACTED]  
[REDACTED] If we  
do not hear from you by next Friday,  
April 30, 2021, we will have to  
terminate our attorney client  
relationship and move to withdraw our  
representation due to failure to  
communicate. If you're working long  
hours, I can work around your  
schedule to discuss your case, but  
you do have to let me know what's the  
best time to give you a call. [REDACTED]  
[REDACTED]

1:49 PM

Read 4/23/21



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## Exhibit C

**BROWN  
KWON &  
LAM LLP**

Brown Kwon & Lam LLP  
Attorneys at Law  
521 Fifth Avenue, 17th Floor  
New York, NY 10175  
Tel.: (718) 971-0326  
Fax: (718) 795-1642  
Email: info@bkllawyers.com

April 22, 2021

**Via First Class Mail**

Deborah McCabe  
[REDACTED]

Bronx, NY 10465

RE: *McCabe v. Harry's Nurses Registry, Inc., et al.*  
Index No. 153822/2020 (Supreme Court, County of New York)

Dear Ms. McCabe:

This firm represents you in the above-referenced matter against Harry's Nurses Registry, Inc. and Harry Dorvilier. We have made multiple attempts to contact you regarding your case and have not heard from you.

If you do not contact us by **Friday, April 30, 2021** by phone at [REDACTED], we will unfortunately have to terminate our attorney-client relationship and we will move to withdraw as your attorney in the above-referenced matter due to failure to communicate.

Sincerely,

/s/ Clara Lam

Clara Lam, Esq.  
[clam@bkllawyers.com](mailto:clam@bkllawyers.com)