

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
NEW YORK

Christopher Creagh v. Espiritus LLC and Jay S. Maltby

Creagh · No. 25-CV-5459 (VEC) · Decided December 1, 2025

SUMMARY

The court orders Plaintiff Christopher Creagh to file an affidavit detailing attorneys’ fees accrued when the complaint was filed, for purposes of determining whether the amount-in-controversy requirement is satisfied. The order follows the appearance of counsel for Espiritus LLC, which previously could not proceed pro se through its sole member.

CASE DETAILS

COURT	United States District Court for the Southern District of New York
WRITING FOR THE COURT	Valerie Caproni
JURISDICTION	United States District Court for the Southern District of New York
DECIDED	December 1, 2025
DOCKET	25-CV-5459 (VEC)
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff filed an amended complaint alleging federal jurisdiction. Defendant Jay S. Maltby, proceeding pro se, moved to dismiss for lack of subject matter jurisdiction on behalf of both defendants. The court issued an order after counsel appeared for Defendant Espiritus LLC, requiring Plaintiff to submit an affidavit concerning attorneys' fees accrued when the complaint was filed.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

- subject matter jurisdiction
- motions to dismiss
- attorney fees
- civil procedure
- commercial litigation

PRACTICE AREAS

- civil procedure
- commercial litigation

QUESTIONS PRESENTED

1. Whether a limited liability company may appear in federal court through a nonlawyer member proceeding pro se.
2. Whether Plaintiff should be required to document attorneys' fees accrued at the time of filing for purposes related to the amount-in-controversy requirement.

HOLDINGS

1. A limited liability company may appear in federal court only through a licensed attorney.

KEY QUOTATIONS

“a limited liability company may appear in federal court only through a licensed attorney” (at 1)

FACTUAL BACKGROUND

Plaintiff's amended complaint alleged that Espiritus LLC is a limited liability company and that Jay S. Maltby is its sole member. Maltby moved to dismiss on behalf of both defendants, arguing that the amount in controversy was insufficient for federal subject matter jurisdiction. After the LLC obtained counsel, the court required Plaintiff to document attorneys' fees accrued as of the complaint's filing date.

PROCEDURAL HISTORY

Plaintiff filed the complaint on July 1, 2025, and later filed an amended complaint. Maltby filed a motion to dismiss for lack of subject matter jurisdiction, asserting that the amount-in-controversy requirement was not satisfied. The court previously ordered Espiritus LLC to retain counsel or show cause why default judgment should not be entered, and counsel subsequently appeared for the LLC. The court ordered Plaintiff to file an affidavit detailing attorneys' fees accrued at the time of filing.

DISPOSITION

other

CASES CITED

- Lattanzio v. COMTA, 481 F.3d 137, 140 (2d Cir. 2007)

OPINION

UNITED STATES DISTRICT COURT DOCUMENT SOUTHERN DISTRICT OF NEW YORK
ELECTRONICALLY FILED DOC #: ----- X
DATE FILED: 12/1/2 025 CHRISTOPHER CREAGH,: Plaintiff,: 25-CV-5459 (VEC) -against-:
ORDER ESPIRITUS LLC and JAY S. MALTBY,: Defendants.: -----
----- X VALERIE CAPRONI, United States District Judge: WHEREAS Plaintiff filed
an Amended Complaint alleging Defendant Espiritus LLC is a limited liability company and
Defendant Jay S. Maltby is its sole member, Dkt.

7; WHEREAS Defendant Maltby filed, pro se, a Motion to Dismiss for lack of subject matter jurisdiction on behalf of both Defendants, alleging that the amount in controversy requirement was not satisfied, Dkts. 11-13; WHEREAS Plaintiff opposed Defendants' Motion to Dismiss, alleging that the amount in controversy was satisfied, Dkt. 14; WHEREAS a limited liability company may appear in federal court only through a licensed attorney, see *Lattanzio v. COMTA*, 481 F.3d 137, 140 (2d Cir.

2007) (interpreting 28 U.S.C. § 1654); WHEREAS this Court ordered Defendant Espiritus LLC to either retain counsel or show cause why default judgment should not be entered against it; and WHEREAS counsel has now appeared for Defendant Espiritus LLC. IT IS HEREBY ORDERED that no later than Monday, December 8, 2025, Plaintiff must file an affidavit attesting to the amount of attorneys' fees accrued at the time of the filing of the Complaint, Dkt.

1, on July 1, 2025. Plaintiff should include—in this affidavit or an exhibit—the date, timekeeper, description of the task, time spent, hourly rate, and fee extended for each relevant billing entry. SO ORDERED. Vode or Date: December 1, 2025 VALERIE CAPRONI New York, New York United States District Judge