

Abrams v Seaview Assn. of Fire Is. N.Y. Inc.,
2026 NY Slip Op 30883(U)
January 8, 2026
Supreme Court, New York County
Docket Number: Index No. 650921/2024
Judge: Gerald Lebovits
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**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. GERALD LEBOVITS PART 07

Justice

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ADAM C ABRAMS,

Plaintiff,

INDEX NO. 650921/2024

005 006 007

MOTION SEQ. NO. 0088 009

- v -

THE SEAVIEW ASSOCIATION OF FIRE ISLAND N.Y. INC.,
and THOMAS RUSKIN,

Defendants.

**DECISION + ORDER ON
MOTION**

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The following e-filed documents, listed by NYSCEF document number (Motion 005) 218, 219, 220, 221, 222, 226, 227, 228, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284

were read on this motion to/for DISMISS.

The following e-filed documents, listed by NYSCEF document number (Motion 006) 212, 213, 214, 229, 230, 231, 232, 234, 235, 236, 237, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254

were read on this motion to/for DISCOVERY.

The following e-filed documents, listed by NYSCEF document number (Motion 007) 215, 216, 217, 233, 238, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269

were read on this motion to/for AMEND CAPTION/PLEADINGS.

The following e-filed documents, listed by NYSCEF document number (Motion 008) 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300

were read on this motion to/for INJUNCTION/RESTRAINING ORDER.

The following e-filed documents, listed by NYSCEF document number (Motion 009) 304, 305, 306, 307, 308, 309, 312, 313

were read on this motion to/for CONSOLIDATE/JOIN FOR TRIAL.

Stuart R. Shaw, Esq., New York, NY, for Plaintiff.
Smith, Finkelstein, Lundberg, Isler & Yakaboski, LLP, Riverhead, NY (Frank A. Isler of counsel), and *Cyrulnik Fattaruso LLP*, New York, NY (Brian T. Kohn of counsel), for defendants.

Gerald Lebovits, J.:

Plaintiff, Adam C. Abrams, owns property and lives in the Seaview community on Fire Island. Abrams is a member of defendant Seaview Association of Fire Island N.Y. Inc. All

property-owners in Seaview are required to be members of the Seaview Association. Defendant Thomas Ruskin has been the Association's president since 2015. This action arises from a series of prolonged disputes between plaintiff and the Seaview Association/Ruskin over Association policies and governance.

Defendants argue on motion sequence 005 that this action should be dismissed with prejudice in light of plaintiff's repeated refusal to comply with the court's orders. This court agrees that dismissal is warranted. Defendants' motion to dismiss is granted. The other outstanding motions in the action are therefore denied as academic.

DISCUSSION

As initially pleaded, plaintiff's complaint asserted 12 causes of action, raising a broad range of grievances with decisions by Ruskin and the Seaview Association relating to the Association's governance, especially governance decisions that affected plaintiff personally. (*See* NYSCEF No. 1.)

On motion sequence 002, defendants moved to dismiss the complaint in its entirety. (*See* NYSCEF No. 54.) Plaintiff both opposed dismissal and moved on motion sequence 004 for leave to supplement the complaint to assert two new causes of action (comprising 15 paragraphs), as set forth in a freestanding document. (*See* NYSCEF No. 103 [notice of motion]; NYSCEF No. 104 [proposed supplemental causes of action].) Plaintiff, a licensed attorney, initially represented himself. He retained counsel after briefing on these motions had been completed, but before they had been decided. (*See* NYSCEF No. 142 [notice of appearance]; NYSCEF No. 145 [notice of change of attorney].)

On August 5, 2024, this court granted the motion to dismiss to the extent of dismissing eight of the 12 causes of action asserted in plaintiff's complaint; and it granted plaintiff's request for leave to supplement only as to part of one of the two new proposed claims.¹ (*See Abrams v Seaview Assn. of Fire Is. N.Y. Inc.*, 2024 NY Slip Op 51149[U] [Sup Ct, NY County 2024] [first order].²) Given these rulings, plaintiff's five surviving causes of action appeared in two separate documents, one of which (the initial complaint) also contained numerous dismissed claims. To

¹ The remaining causes of action are claims (i) for inspection of Seaview Association books and records; (ii) that defendants invaded plaintiff's privacy by pointing video cameras toward his property to record his recreational activities; (iii) that defendants removed and destroyed landscaping-related supplies (and landscaped foliage) belonging to plaintiff and on his property; (iv) that defendants discriminated against plaintiff on the basis of disability by refusing him permission to use his golf cart on streets owned by the Association; and (v) that defendants improperly denied him use of Association facilities despite his being current on his Association dues. (*Compare* NYSCEF No. 1 [complaint] and NYSCEF No. 104 [proposed supplemental complaint], *with Abrams*, 2024 NY Slip Op 51149[U], at *15 [enumerating surviving causes of action].)

² This court's order also resolved two other motions brought by plaintiff (motion sequences 001 and 003). (*See Abrams*, 2024 NY Slip Op 51149[U], at *3-5 [mot seq 001], *13 [mot seq 003].) Those aspects of this court's order are not material here.

ensure that the five surviving claims (and only those claims) were set forth in a single document, this court directed plaintiff to “file a new version of his complaint reflecting this court’s determinations” on the motion to dismiss and motion for leave to supplement. (*See id.* at *12.)

1. Plaintiff’s First Noncompliant “Amended Complaint”

On August 21, 2024, rather than file a conforming updated complaint, plaintiff, acting out of what he himself described as “anger over perceived offenses by defendant” (NYSCEF No. 223), filed what was essentially a new, 328-paragraph pleading, without leave of court. (*See* NYSCEF No. 154 [the first version of the “amended complaint”].) And plaintiff did so *personally* (*see id.* at 72 [signature page]), though he was still represented by counsel.

Defendants’ counsel emailed the court (with a copy to plaintiff’s counsel) objecting to this first version of the “amended complaint” as failing to comply with the terms of the court’s prior order. After reviewing plaintiff’s filing, this court agreed. This court issued an order on August 26, 2024, holding that the amendment was a nullity that could not serve as plaintiff’s operative pleading in the action. (*See* NYSCEF No. 200 [second order].)

This court reached that conclusion in its second order both because the CPLR barred plaintiff, as a represented party, from himself signing or filing pleadings in the action absent court permission (which had not been sought); and because the putative amended complaint was noncompliant in numerous respects with the court’s order on the prior motions. (*See id.* at 2.) This court emphasized in its second order that its directive to file a new version of the complaint “was not an invitation to plaintiff to add new factual allegations, add new causes of action, or persist with causes of action that this court had dismissed.” (NYSCEF No. 200 at 2.) And it warned plaintiff that if he did not, within 14 days of service of notice of entry, “file an amended complaint, signed and filed by plaintiff’s counsel, that complies with this order and with” the order on the motions to dismiss/to amend, “this action will be dismissed.” (*Id.*)

2. Plaintiff’s Second Noncompliant “Amended Complaint”

Nonetheless, plaintiff chose not to comply with either of this court’s orders. On September 9, 2024, plaintiff, now acting through counsel, filed a second version of the “amended complaint” that rewrote the initial complaint from top to bottom, made allegations about post-commencement occurrences, and added a breach-of-settlement claim that this court had squarely *denied* him leave to include. (*Compare* NYSCEF Nos. 1 and 104, *with* NYSCEF No. 203 [second version]; *see also* *Abrams*, 2024 NY Slip Op 51149[U], at *14 [denying leave to supplement the complaint with a breach-of-settlement claim].)

Additionally, plaintiff’s counsel made clear that counsel knew what he was doing in filing this noncompliant second version of the “amended complaint.” In a September 19 letter to the court, counsel explained that this second version “was revised to comply with the order of this court *while addressing all the new facts*” (NYSCEF No. 209 at 2 [emphasis added])—notwithstanding that this court had expressly told him that its orders were “not an invitation to plaintiff to add new factual allegations” (NYSCEF No. 200 at 2).

Similarly, counsel explained that he saw the inclusion of the (rejected) breach-of-settlement claim as appropriate because the new filing assertedly “adequately allege[d] the essential terms of the contract and the breach” that this court had previously found to be lacking. (NYSCEF No. 209 at 3.) But the proper response to an order denying a request to supplement a pleading is to move for leave to renew/reargue, or perhaps to move again for leave to supplement. It is not to file a further supplemented pleading as if leave *had* been granted, when it was not.

3. Plaintiff’s Request for Leave to File a Third Version of the “Amended Complaint”

Plaintiff also did not attempt to cure his evident and persistent noncompliance with this court’s orders through formally moving for leave to amend his complaint in the form that this court had already directed, or even in the form of the second version of the “amended complaint.” Instead, on motion sequence 007, filed on September 23, 2024, plaintiff asked this court for leave to file a totally different *third* version of the “amended complaint”—one that heavily resembled the first version that plaintiff himself had already filed, and that this court had already stricken in its second order. (*See* NYSCEF No. 215 [notice of motion]; *compare* NYSCEF No. 217 [proposed amended complaint], *with* NYSCEF No. 154.) And plaintiff did not attempt to explain how amendment would be consistent with this court’s prior orders; or, for that matter, why amendment would be warranted in any event. (*See* NYSCEF No. 216 [attorney affirmation].)

Plaintiff also did not argue at any point that any of these three different versions of the “amended complaint” fully satisfied this court’s initial August 5 directive to file a complaint conforming to the court’s determinations in its first order, resolving the motion to dismiss/motion to supplement. And plaintiff did not explain how his conduct complied with this court’s second order that elaborated on what plaintiff was—and was not—permitted to include in the updated complaint. Indeed, even after defendants moved to dismiss, plaintiff still did not argue either that defendants erred in claiming that plaintiff flouted this court’s orders, or that defendants overreached in seeking dismissal for plaintiff’s noncompliant conduct.

At most, defendant, in his affirmation opposing the motion to dismiss, offered only to withdraw his request for leave to file the third version of the “amended complaint,” and substitute in its place a *fourth* version that—for the first time—was “made in strict compliance” with this court’s initial order. (NYSCEF No. 226 at ¶ 6; *see* NYSCEF No. 227 [proposed new amended complaint].) That belated offer, though, only confirms that plaintiff knew full well how to comply with this court’s orders, but had chosen repeatedly, for reasons of his own, not to do so.

This court agrees with defendants that plaintiff’s knowing noncompliance with this court’s orders—after being expressly warned in the court’s August 26 order that further noncompliance would result in the court’s dismissing the action (*see* NYSCEF No. 200 at 2)—warrants dismissal with prejudice. And given the grant of defendants’ motion to dismiss, the other outstanding motions in the action are academic and are denied on that basis.

This court concludes that dismissal is a sufficient consequence for plaintiff's noncompliant conduct; the court therefore denies defendants' request for attorney fees and costs, which the court takes to be made under 22 NYCRR 130-1.1.

Accordingly, it is

ORDERED that the branch of defendants' motion seeking dismissal (mot seq 005) is granted, and the complaint is dismissed with prejudice, with costs and disbursements as taxed by the Clerk upon the submission of an appropriate bill of costs; and it is further

ORDERED that the branch of defendants' motion seeking an award of sanctions (mot seq 005) is denied; and it is further

ORDERED that plaintiff's motions to compel discovery (mot seq 006), for leave to amend (mot seq 007), for a preliminary injunction (mot seq 008), and to consolidate (mot seq 009) are denied as academic; and it is further

ORDERED that defendants serve a copy of this order with notice of its entry on plaintiff; and on the office of the County Clerk (using the NYSCEF document type "Notice to the County Clerk - CPLR § 8019 (c)"), which shall enter judgment accordingly.

1/8/2026
DATE


HON. GERALD LEBOVITZ
J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE