

<b>Doulos v Vader Servicing, LLC</b>
2026 NY Slip Op 31010(U)
March 16, 2026
Supreme Court, New York County
Docket Number: Index No. 653810/2023
Judge: Emily Morales-Minerva
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SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK: PART 42M

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ERI DOULOS,

Plaintiff,

- v -

VADER SERVICING, LLC D/B/A, VADER MOUNTAIN  
CAPITAL,

Defendant.

INDEX NO. 653810/2023

MOTION DATE 06/06/2025,  
08/04/2025

MOTION SEQ. NO. 004 005

**DECISION + ORDER ON  
MOTION**

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The following e-filed documents, listed by NYSCEF document number (Motion 004) 39, 40, 41, 42, 43, 44, 45, 52, 53, 54

were read on this motion to/for DISMISSAL

The following e-filed documents, listed by NYSCEF document number (Motion 005) 49, 50, 51

were read on this motion to/for DISMISSAL

APPEARANCES :

Eri Doulos, self-represented plaintiff.

HON. EMILY MORALES-MINERVA, J.S.C.

On January 10, 2025, this Court granted the order to show cause (mot. seq. no. 03) of non-party movant Victor M. Feraru, Esq. to withdraw as counsel for plaintiff ERI DOULOS (see New York State Court Electronic Filing System [NYSCEF] Doc. No. 35, decision and order, dated January 10, 2026). Therein, this Court stayed the instant action for a period of 60 days to allow plaintiff ERI DOULOS sufficient time to retain new counsel (see id.). Plaintiff failed to do so.

Plaintiff, now self-represented, moves (mot. seq. no. 04) (1) for an order dismissing this action without prejudice pursuant to CPLR § 3217 (b); and (2) for a stay of all collections and lien efforts for 30 days by defendant VADER SERVICING, LLC D/B/A VADER MOUNTAIN CAPITAL pursuant to CPLR § 2201 (see NYSCEF Doc. No. 39, notice of motion).

Thereafter, plaintiff filed a second motion (seq. no. 05) seeking relief identical to that requested in motion sequence number 04.

Defendant VADER SERVICING, LLC D/B/A VADER MOUNTAIN CAPITAL does not appear or oppose the motions.

An action may be discontinued upon order of the court and upon terms and conditions, as the court deems proper, before the cause has been submitted to the court or jury to determine the facts (see CPLR § 3217 [b]). "A stipulation signed by all [parties] is not required where a court order [CPLR § 3217 (b)] is sought" (Shepherd v Workmen's Circle Multicare Ctr., 224 AD3d 485 [1st Dept 2024]). "While the authority of a court to grant or to deny an application made to it pursuant to CPLR § 3217 (subd [b]) by a party seeking voluntarily to discontinue litigation is within its sound discretion, ordinarily a party cannot be compelled to litigate and, absent special circumstances, discontinuance should be granted" (Tucker v Tucker, 55 NY2d 378, 382 [1982]; see Bank of Am., Nat. Ass'n v

Douglas, 110 AD3d 452 [1st Dept 2013] [noting that prejudice to adverse parties constitutes special circumstances]; Burnham Serv. Corp. v National Council on Compensation Ins., 288 AD2d 31 [1st Dept 2001]).

No party has opposed the instant motion seeking leave voluntarily to discontinue the action against defendant, nor do any special circumstances exist here (see Bank of Am., Nat. Ass'n, 110 AD3d at 452). Therefore, the discontinuance is granted.

However, a stay may only be granted in an action that is pending (see CPLR § 2201 ["the court in which an action is pending may grant a stay of proceedings in a proper case, upon such terms as may be just"] [emphasis added]). Given that this action is discontinued, the Court cannot grant a stay of collections and lien efforts by defendant.

Accordingly, it is hereby

ORDERED that plaintiff's motion (seq. no. 04) to discontinue this action pursuant to CPLR § 3217 (b) is granted without opposition; it is further

ORDERED that the instant action is dismissed without prejudice; it is further

ORDERED that plaintiff's motion (seq. no. 04) to stay all collections and lien efforts for 30 days by defendant VADER

SERVICING, LLC D/B/A VADER MOUNTAIN CAPITAL is denied; it is further

ORDERED that plaintiff's motion (seq. no. 05) is dismissed, as moot; and it is further

ORDERD that the Clerk of Court shall mark the file accordingly.

3/16/2026

DATE

*Emily Morales Mimerca*

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