

Europa Realty LLC v Inserra
2026 NY Slip Op 31024(U)
March 18, 2026
Supreme Court, New York County
Docket Number: Index No. 152003/2022
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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 EUROPA REALTY LLC

Plaintiff,

- v -

LAWRENCE INSERRA,

Defendant.

INDEX NO. 152003/2022

MOTION DATE 08/29/2025

MOTION SEQ. NO. 002

**DECISION + ORDER ON
 MOTION**

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 The following e-filed documents, listed by NYSCEF document number (Motion 002) 36, 37, 38, 39, 40, 41, 42

were read on this motion to/for

DISCOVERY

APPEARANCES:

Castro Law Group PLLC, New York, NY (Claude Castro, Esq., of counsel), for plaintiff.

PEM Law LLP, West Orange, NJ (Leonard Salvatore Spinelli, Esq., of counsel), for defendant.

EMILY MORALES-MINERVA, J.S.C.

In this action, defendant LAWRENCE INSERRA moves, by notice of motion (sequence number 002), for an order pursuant to CPLR § 3124¹ compelling plaintiff EUROPA REALTY LLC to respond to defendant's discovery demands within 30 days. Defendant further requests an order striking the complaint in the event plaintiff fails to comply with those demands.

¹ CPLR § 3124 provides, "If a person fails to respond to or comply with any request, notice, interrogatory, demand, question or order under this article, except a notice to admit under section 3123, the party seeking disclosure may move to compel compliance or a response."

Plaintiff does not oppose the branch of the motion seeking to compel discovery responses to the discovery demands, but opposes the request to strike the complaint if responses are not served by a specified deadline.

CPLR § 3101 (a) generally governs disclosure, directing that "[t]here shall be full disclosure of all matter material and necessary in the prosecution or defense of an action, regardless of the burden of proof" (emphasis added). The "'statute embodies the policy determination that liberal discovery encourages fair and effective resolution of disputes on the merits, minimizing the possibility for ambush and unfair surprise'" (Forman v Henkin, 30 NY3d 656, 661 [2018], quoting Spectrum Sys. Intl. Corp. v Chemical Bank, 78 NY2d 371, 376 [1991]).

Accordingly, our governing Court of Appeals has long "emphasized that '[t]he words, "material and necessary", are . . . to be interpreted liberally to require disclosure, upon request, of any facts bearing on the controversy which will assist preparation for the trial by sharpening the issues and reducing delay and prolixity. The test is one of usefulness and reason" (Forman v Henkin, 30 NY3d 656, 661 [2018], quoting Allen v Crowell-Collier Publ. Co., 21 NY2d 403, 406, [1968], citing Andon v 302-304 Mott St. Assoc., 94 NY2d 740, 746 [2000]).

"If a person fails to respond to or comply with any request, notice, interrogatory, demand, question or order [for discovery] the party seeking disclosure may move to compel compliance or a response" (CPLR § 3124). Where the failure or refusal to comply with a disclosure order exists, the "court may make such orders . . . as are just," including "prohibiting the disobedient party from producing in evidence designated things or items of testimony [] or from using certain witnesses" (see CPLR § 3126 [2]). However, "the court must determine that the party's failure to comply with a disclosure order was willful, deliberate and contumacious" before invoking the drastic remedy of preclusion pursuant to CPLR § 3126 (2) (Holliday v Jones, 36 AD3d 557, 558 [1st Dept 2007], citing Vatel v City of New York, 208 AD2d 524 [2d Dept 1994]).

Defendant's request for an order pursuant to CPLR § 3124 compelling plaintiff to respond to defendant's document demands and interrogatories served on April 23, 2025, is granted. However, defendant has not demonstrated a pattern of plaintiff's willful non-compliance with discovery -- particularly in the absence of any prior court order directing plaintiff to respond by a certain date. Therefore, the Court declines to strike the complaint in the event plaintiff fails to meet this court-ordered deadline. Instead, the parties shall appear for a preliminary conference on May 20, 2026, at 11:00 A.M.

Accordingly, it is hereby

ORDERED that defendant's motion (seq. no. 02) is granted, in part, to the extent that plaintiff shall respond to defendant's document demands and interrogatories served on April 23, 2025, by no later than April 30, 2026; it is further

ORDERED that defendant's motion (seq. no. 02) is otherwise denied; it is further

ORDERED that the parties shall appear for a preliminary conference in Part 42M, Courtroom 574, 111 Centre Street on May 20, 2026, at 11:00 A.M.; it is further

ORDERED that, within ten days from the date of this decision and order, defendant shall serve a copy of this order, with notice of entry, on plaintiff; and it is further

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

3/18/2026
DATE


EMILY MORALES-MINERVA, J.S.C.

CHECK ONE:

CASE DISPOSED
GRANTED DENIED
SETTLE ORDER
INCLUDES TRANSFER/REASSIGN

NON-FINAL DISPOSITION
GRANTED IN PART
SUBMIT ORDER
FIDUCIARY APPOINTMENT

OTHER
REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: