

Razinski v 136 Field Point Circle Holding Co., LLC
2017 NY Slip Op 31330(U)
June 19, 2017
Supreme Court, New York County
Docket Number: 652357/13
Judge: Joan A. Madden
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**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: PART 11**

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ALEXANDER RAZINSKI and TANYA RAZINSKI,

Index No.: 652357/13

Plaintiffs,

-against-

136 FIELD POINT CIRCLE HOLDING COMPANY, LLC,

Defendant.
-----X

Hon. Joan A. Madden, J.:

Plaintiffs/judgment debtors Alexander Razinski and Tanya Razinski (together “the Razinskis”) move, by order to show cause, for an order granting leave to renewal and reargue this court’s decision and order dated March 13, 2017 (“the original decision”),¹ to the extent it required the Razinskis to respond to questions numbers 63 and 64 contained in separate, but identical, information subpoenas dated August 22, 2016 and August 23, 2016 served, respectively, on Alexander Razinski and Tanya Razinski. Upon renewal and reargument, the Razinski s seek an order vacating the original decision insofar as it directed the Razinskis to answer question numbers 63 and 64.² Defendant/judgment creditor 136 Field Point Circle Holding Company, LLC (hereinafter “FPC”) opposes the motion.

Question numbers 62, 63 and 64 of the information subpoenas at issue ask whether the Razinskis received money from others in connection with their support and, if so, for the names and addresses of persons providing such support and the amounts contributed by such persons.

¹The original decision decided separate motions made by defendant/judgment creditor 136 Field Point Circle Holding Company, to compel each of the Razinskis to respond to the separate information subpoenas served upon them.

²When the court signed the Razinskis’ proposed order to show cause it granted them a stay of their obligation to respond to the information.

In the original decision, the court granted FPC's motion to compel the Razinskis to respond to these questions, writing that:

While question number 62 is inartfully drafted, the question clearly seeks the source of funds used to support the Razinskis. Under the circumstances here, where, in answering other questions, the Razinskis report no income, or other sources or assets used for their support, an answer to this question is warranted.... Questions 63 and 64, which seek the identity of persons providing any support and their addresses and the amounts provided, must also be answered, although to preserve their privacy the identity of such persons and their addresses shall be for attorneys' eyes only.³

The Razinskis now move for renewal and reargument of the original decision to the extent that it required them to answer questions numbers 63 and 64, asserting that they will be prejudiced and irreparable harmed if the questions must be answered. They also argue that the information sought in connection with these questions, has nothing to do with the Razinskis' assets, will not aid FPC's enforcement efforts, and will be misused by FPC for objectives independent of such efforts.

In support of their renewal motion, the Razinski submit the affidavit of Mr. Razinski who describes those providing them with financial support as "long time friends and investors in previous business transactions that we put together" (A. Razinski Aff. ¶ 2). He further states that the disclosure of the identity of those who provide them support will "serve only to prejudice us [since][i]f given the names of and contact information for the persons who have been supporting

³In the original decision, the court also directed the Razinzkis to respond to question number 74, which asks for a detailed itemization of the Razinskis' monthly expenses, to the extent of requiring the Razinskis to provide an answer with the lump sum of their expenses, subject to further order of the court requiring more detail in the event the answer is inconsistent with the Razinskis' financial circumstances. Question number 74 is not at issue on this motion.

us, FPC can be expected to harass those persons, through burdensome discovery requests or otherwise, so as to induce them to stop providing money to us until such time as the transaction on which are working on closes” (Id). He further states that “we are presently involved in efforts to bring together investors, construction companies, government entities and others in a project to build and operate a major infrastructure project in Asia [and that][i]t is vital to the success of our business activities that we retain the support and good will of friends and collaborators who advance funds to us, directly and indirectly, to support our business endeavors and help pay our bills [which include] significant ..expenses, including legal fees and operating expenses...” (Id, ¶’s 3, 4).

As for the motion for reargument, the Razinskis assert that court misapplied the law in compelling them to answer question numbers 63 and 64, which would allow FPC to use enforcement proceedings/post judgment discovery devices to go “beyond [their] proper role of seeking information concerning the [judgment debtors’] assets,” quoting Stern v. Carlin Communications, Inc., 210 AD2d 110, 111 (1st Dept 1994).

With respect to the motion to renew, the court notes that such a motion “is intended to bring to the court’s attention new facts or additional evidence which, although in existence at the time the original motion was made, were unknown to the movant and were, therefore not brought to the court’s attention.” Tishman Constr. Corp. of New York v. City of New York, 280 AD2d 374, 376 (1st Dept 2001)(citations omitted). At the same time, “a court has latitude, in the interest of justice, to grant renewal, even on facts known to the movant at the time of the original motion.” Salman v. Rosario, 87 AD3d 482, 482 (1st Dept 2011).

Here, as FPC points out in opposition, the allegedly “new facts” provided in Mr. Razinskis’ affidavit were known to the Razinskis at the time of the original motion and do not provide a basis for renewal. Moreover, even if the court were to nonetheless consider the

motion to renew “in the interest of justice,” it would adhere to its original decision, as the facts in the Razinski affidavit do not provide a basis for denying the motion to compel the Razinskis to respond to question numbers 63 and 64.

As noted in the original decision, “[u]nder New York law, judgment creditors are entitled to broad disclosure in aid of judgment enforcement.” U.S. Bank N.A. v. APP Intern Fin. Co., B.V., 100 AD3d 179, 183 (1st Dept 2012)(internal citation omitted). Furthermore, “[i]t is patent that, pursuant to CPLR 5223, “all matter relevant to the satisfaction of the judgment’ ” is discoverable and “the public policy is to put no obstacle in the path” of those seeking to enforce a judgment.” Id., citing Siemens & Halske, GmbH v Gres, 77 Misc 2d 745, 745 (Sup Ct, NY County 1973), affd 43 AD2d 1021 (1st Dept 1974)(internal quotation marks omitted). Here, as the court found in the original decision, the identity of the source of the Razinskis’ support is relevant to the satisfaction of the judgment, particularly as the Razinskis point to no other sources of income or assets. Furthermore, the court previously considered the Razinskis’ argument as to privacy concerns of those providing them with funds, and in view of such concerns directed that the identity of such persons and their addresses shall be for attorneys’ eyes only. In addition, to the extent the Razinskis now argue that they are concerned that FPC will harass those providing them with funds, counsel for FPC has agreed to apply to the court prior to using the information in the responses to question numbers 63 and 64.

With regard to the Razinskis’ motion to reargue, such a motion is addressed to the discretion of the court, and is intended to give a party an opportunity to demonstrate that the court overlooked or misapprehended the relevant facts, or misapplied a controlling principle of law. See, Foley v Roche, 68 AD2d 558, 567 (1st Dept 1979). However, “[r]eargument is not designed to afford the unsuccessful party successive opportunities to reargue issues previously decided.” William P. Pahl Equipment Corp. v. Kassiss, 182 AD2d 22, appeal denied in part

dismissed in part 80 NY2d 1005 (1992). Here, there is no basis for granting reargument. As indicated above, the court properly found that FPC was entitled to the information sought in question numbers 63 and 64 as part of the broad discovery rights afforded in connection with enforcement of judgments. Moreover, Stern v. Carlin Communications, Inc., *supra*, on which the Razinskis rely, is not to the contrary. In Stern, the Appellate Division, First Department upheld the trial court's order quashing a subpoena for documents in a fraudulent conveyance action, writing that the information sought in such subpoena "went beyond its proper role of seeking information concerning defendant corporations' assets by demanding '[a]ll cancelled checks and other checking account records' of certain nonparty corporations, claimed to be closely related to defendants, regardless of whether such checks and records involved defendants' assets or wholly unrelated funds." 210 AD2d at 111.

In contrast, here, the information at issue relates not to non-party assets but rather to funds provided to a party, namely the Razinskis, who are the judgment debtors. Furthermore, as previously noted, the need for such information is evident here since in answering other questions in the information subpoenas, the Razinskis reported no income, or other sources of assets used for their support. See Aron v. McIntyre, 15 AD3d 475 (2d Dept 2005)(noting that petitioner demonstrated entitlement to financial information about judgment debtor's wife where information obtained during deposition showed judgment debtor might be using wife's business to conceal income and assets). Accordingly, the Razinskis' motion to reargue is denied.⁴

In view of the above, it is

ORDERED that Razinskis' motion for renewal and reargument is denied; and it is further

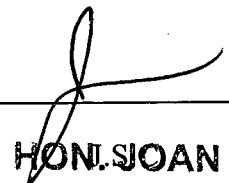
ORDERED that all stays related to the Razinskis' obligation to respond to the

⁴As the court has considered the Razinskis' arguments and evidence even if raised for the first time on this motion, the court need not address the parties' procedural arguments in this regard.

information subpoena are hereby vacated the Razinskis shall, consistent with this decision and order, respond to question numbers 63 and 64 in their respective information subpoenas within 10 days of service upon their counsel of a copy of this order with notice of entry; and it is further

ORDERED that the information contained in the Razinskis' responses to question numbers 63 and 64 are for attorneys' eyes only and FPC shall apply to the court prior to using the information in these responses.

DATED: June 19, 2017


HON. JOAN A. MADDEN
J.S.C.