

Pfanner v Anderson

2024 NY Slip Op 33133(U)

September 5, 2024

Supreme Court, Kings County

Docket Number: Index No. 509789/2024

Judge: Leon Ruchelsman

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS : CIVIL TERM: COMMERCIAL 8

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ANDREAS PFANNER, individually and in the
right of POK 325 MAIN, LLC,

Plaintiff,

Decision and order

- against -

Index No. 509789/2024

ERIC GUSTAVE ANDERSON, URBAN GREEN
EQUITIES, LLC, POK MILL HOUSING
DEVELOPMENT FUND CORPORATION, POK 325
MAIN LLC, WALLACE CAMPUS MANAGER LLC,

Defendants,

September 5, 2024

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PRESENT: HON. LEON RUCHELSMAN

Motion Seq. #9

The plaintiff has moved seeking to quash a subpoena served on non-party SFA Interiors. The defendant has opposed the motion on the grounds the subpoena is irrelevant. Papers were submitted by the parties and after reviewing all the arguments, this court now makes the following determination.

As recorded previously, according to the amended complaint the plaintiff Andreas Pfanner and the defendant Eric Gustave Anderson entered into a joint venture and acquired property located at 302-304-306 Mill Street, Poughkeepsie, New York. The plaintiff asserts the defendant purchased additional property located at 325 Main Street in Poughkeepsie with proceeds from the joint venture and then resold it at a profit without informing the plaintiff. The plaintiff asserts he is entitled to half the proceeds and instituted this action seeking to set aside that conveyance. The defendant has served a subpoena upon SFA Interiors, an entity wholly owned by the plaintiff. This motion to quash that subpoena

has now been filed.

Conclusions of Law

In Kapon v. Koch, 23 NY3d 32, 988 NYS2d 559 [2014] the court held that third party subpoenas may be served whenever the information sought is 'material and necessary' "of any facts bearing on the controversy which will assist preparation for trial by sharpening the issues and reducing delay and prolixity" (id). The court noted that "so long as the disclosure sought is relevant to the prosecution or defense of an action, it must be provided by the nonparty" (id). Thus, "disclosure from a nonparty requires no more than a showing that the requested information is relevant to the prosecution or defense of the action" (see, Bianchi v. Galster Management Corp., 131 AD3d 558, 15 NYS3d 189 [2d Dept., 2015], CPLR §3103(a)). A party seeking to vacate or quash a third party subpoena has a burden establishing the information is "utterly irrelevant" or "the futility of the process to uncover anything legitimate is inevitable or obvious" (Anheuser-Busch Inc., v. Abrams, 71 NY2d 327, 525 NYS2d 816 [1988]).

The plaintiff opposes the subpoena on the grounds the information sought is "utterly irrelevant to the causes of action in this matter" (see, Memorandum of Law, page 3 [NYSCEF Doc. No. 120]). The defendant argues that the plaintiff's have failed to meaningfully engage in discovery. However, even if true that

does not warrant a subpoena upon a non-party.

Next, the defendant argues the information in the subpoena seeks to establish the plaintiff's limited role in the joint venture. However, there really is no relevance to the plaintiff's involvement in the venture. The plaintiff's passive interest, if true, does not undermine his claims the defendant improperly utilized joint venture assets or failed to give the plaintiff his share of any proceeds. Of course, the defendant vigorously disputes those allegations and relevant discovery and perhaps a trial will resolve the claims. The records of another entity attempting to demonstrate the plaintiff was busy there and ignored the joint venture is simply not relevant.

Furthermore, the defendant asserts the subpoena is necessary to examine the plaintiff's finances. Specifically, the defendant insists there are "dozens of emails over several years between Defendants Anderson and Urban Green and various managers at SFA Interiors, who acted as Pfanner's de facto family office, funding most of Pfanner's cash investment in the Partnership and tracking his accounts" (see, Memorandum in Opposition, page 2 [NYSCEF Doc. No. 174]). However, Pfanner's finances are not relevant in this lawsuit. The defendant has not argued that any counterclaims exist necessitating this information. Thus, Pfanner's wholly owned entity has no bearing at all on whether the defendant utilized venture funds to purchase other property.


Thus, the subpoena does not seek any information relevant to the lawsuit.

Therefore, based on the foregoing, the motion seeking to quash the subpoena is granted.

So ordered.

ENTER:

Dated: September 5, 2024
Brooklyn, N.Y.



Hon. Leon Ruchelsman
JSC