

Sanders Equities LLC v Maldonado

2024 NY Slip Op 34593(U)

October 7, 2024

Supreme Court, Nassau County

Docket Number: Index No. 605681/2022

Judge: Sharon M.J. Gianelli

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU – Commercial Division Part 7
Present: Hon. Sharon M.J. Gianelli

.....X
SANDERS EQUITIES LLC, NEXT MILLENNIUM
REALTY, LLC, AERIAL WAY AND ROBBINS LLC,
123 FROST ASSOCIATES L.P., 135 NORTH
BROADWAY LLC and 69 BLOOMINGDALE LLC,

Index No: 605681/2022

Motion Seq. No. 004

Decision and Order

Plaintiffs,

-against-

KEVIN MALDONADO, KEVIN MALDONADO AND
ASSOCIATES, P.C. d/b/a KEVIN MALDONADO &
ASSOCIATES d/b/a KEVIN MALDONADO &
PARTNERS LLC, MELISSA MALDONADO, KEVIN
MALDONADO and MELISSA MALDONADO, as
TRUSTEES of THE KEVIN AND MELISSA
MALDONADO TRUST, EAGLE LAKE HOLDINGS
LLC, BUSHMAN HILL REAL ESTATE LLC, 567 FOUR
MILE POINT LLC, WM WELCH ENTERPRISES LLC,
BLUE STONE AND MULCH LLC, WMW HOLDINGS
LLC, and HART MANSION LLC,

Defendants.

.....X
Upon consideration of papers submitted on this motion, the Court’s ruling is set forth
below.

This is Plaintiffs’ motion for an Order of the Court, pursuant to CPLR 3126(3): striking
the Answer to the Amended Complaint, Counterclaim, and Third-Party Complaint, filed
September 8, 2023 of Defendants Kevin Maldonado (“Maldonado”), and Kevin
Maldonado and Associates, P.C. d/b/a Kevin Maldonado & Associates d/b/a Kevin
Maldonado & Partners LLC (“the Firm”); or alternatively, pursuant to CPLR 3126(2),
precluding Maldonado and the firm from relying upon any documents in support of

their defenses and counterclaim in this action; or alternatively, pursuant to CPLR 3124, compelling Maldonado and the firm to produce disclosure within a date certain to be set by the Court.

The underlying Complaint herein concerns a legal malpractice claim by Plaintiffs against Defendant Maldonado, a sole practitioner, who served as a long-time attorney to Plaintiffs in connection with the owning, managing and leasing of commercial real estate. Plaintiffs allege, *inter alia*, a multi-year pattern of excessive and fraudulent billing for legal services which were allegedly never rendered.

The background/factual recitation set forth in movants' "Affirmation of Franklin C. McRoberts in Support of Motion to Strike, to Preclude, and/or to Compel" comports with the Court's record.

Upon due consideration, Defendants have shown themselves overall to be evasive, uncooperative, and dilatory. Striking and/or preclusion are drastic steps; and though Defendants have just about earned this outcome, the Court will nevertheless allow Defendants one additional opportunity to become fully compliant with all outstanding discovery within the time frame mandated below by the Court.

Accordingly,

It is

ORDERED, that Plaintiffs' motion for an Order of the Court, pursuant to CPLR 3126(3) striking the Answer to the Amended Complaint, Counterclaim, and Third-Party

Complaint, filed September 8, 2023 of Defendants Kevin Maldonado, and Kevin Maldonado and Associates, P.C. d/b/a Kevin Maldonado & Associates d/b/a Kevin Maldonado & Partners LLC (Kevin Maldonado and the Firm), is Denied, at this time, with leave granted herein for movants to re-apply should Defendants fail to comply with this Decision and Order herein; and

It is

ORDERED, that Plaintiffs' motion for an Order of the Court, pursuant to CPLR 3126(2), precluding Defendants Kevin Maldonado, and Kevin Maldonado and Associates, P.C. d/b/a Kevin Maldonado & Associates d/b/a Kevin Maldonado & Partners LLC (Kevin Maldonado and the Firm), from relying upon any documents in support of their defenses and counterclaim in this action, is Denied, at this time, with leave granted herein for movants to re-apply should Defendants fail to comply with this Decision and Order herein; and

It is

ORDERED, that Plaintiffs' motion for an Order of the Court, pursuant to CPLR 3124, compelling Defendants Kevin Maldonado, and Kevin Maldonado and Associates, P.C. d/b/a Kevin Maldonado & Associates d/b/a Kevin Maldonado & Partners LLC (Kevin Maldonado and the Firm) to produce disclosure within a date certain to be set by the Court, is Granted; and

It is

ORDERED, that Defendants Kevin Maldonado, and Kevin Maldonado and Associates, P.C. d/b/a Kevin Maldonado & Associates d/b/a Kevin Maldonado & Partners LLC (Kevin Maldonado and the Firm) shall fully comply with all outstanding discovery concerning this matter within thirty (30) days from the date of entry of this Decision and Order; and

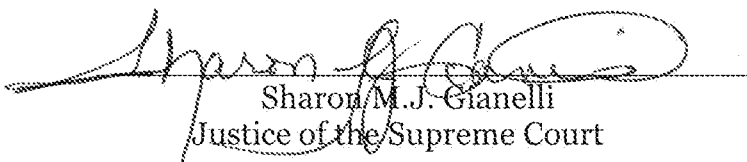
It is

ORDERED, that the parties shall appear for a Compliance Conference on December 9, 2024 at 11:00 a.m.

Any application not specifically ruled upon herein is denied.

This constitutes the Decision and Order of this Court.

Date: Mineola, New York
October 7, 2024



Sharon M.J. Gianelli
Justice of the Supreme Court

ENTERED

Oct 09 2024

NASSAU COUNTY
COUNTY CLERK'S OFFICE