

Art Lending, Inc. v Rose

2025 NY Slip Op 30775(U)

March 6, 2025

Supreme Court, New York County

Docket Number: Index No. 653390/2024

Judge: Andrea Masley

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 48

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ART LENDING, INC.,

Plaintiff,

- v -

ANDREW ROSE, ART FINANCE PARTNERS LLC,
OHPSMA, LLC, OHPC LP, SR ALTERNATIVE CREDIT,
LLC, ART HOWEZ, LLC, HOWE 2011 DYNASTY TRUST,
AF FUNDING (X), LLC, FAIRWAY ART FUND, LP, and
KNICKERBOCKER FUNDING, LLC,

Defendants.

-----X

ART HOWEZ, LLC and HOWE 2011 DYNASTY TRUST,

Third-Party Plaintiffs,

-against-

AF FUNDING (XXIII) LLC, AF FUNDING VIII LLC, and AF
FUNDING (XI) LLC,

Third-Party Defendants.

-----X

ANDREW ROSE and ART FINANCE PARTNERS LLC,

Third-Party Plaintiffs,

-against-

SHINNECOCK PARTNERS LP and SHINNECOCK GROUP
LLC,

Third-Party Defendants.

-----X

ART FINANCE PARTNERS LLC, AF FUNDING (X), LLC,
KNICKERBOCKER FUNDING, LLC, and AF FUNDING VIII
LLC,

Third-Party Plaintiffs,

-against-

PROCACINI S.L., FLORENCIO NICOLAS CORTES BARRIOS,
PETRARCH LLC, TANIS ANTIQUITIES LTD., VIANA ART

653390/2024 ART LENDING, INC. vs. ROSE, ANDREW ET AL
Motion No. 004

INDEX NO. 653390/2024

MOTION DATE _____

MOTION SEQ. NO. 004

**DECISION + ORDER ON
MOTION**

Third-Party
Index No. 596128/2024

Second Third-Party
Index No. 595109/2025

Third Third-Party
Index No. 595148/2025

LLC, W & P GALLERIES, INC., INVESTART MANAGEMENT
LLC, MADISON AVENUE LLC, HICHAM ABOUTAAM, ANDRE
VIANA, and GEROLD PETERS,

Third-Party Defendants.

-----X

HON. ANDREA MASLEY:

The following e-filed documents, listed by NYSCEF document number (Motion 004) 151, 152, 153, 154, 155, 180, 184, 185, 186, 190, 244

were read on this motion to/for CONSOLIDATE/JOIN FOR TRIAL.

In motion seq. no. 004, Petrarch LLC (Petrarch) and Hicham Aboutaam¹ move to consolidate *Art Lending, Inc. v Petrarch LLC d/b/a Electrum, Tanis Antiquities, Ltd. and Hicham Aboutaam* (Index No. 653919/2024) (Lebovits, J.) (*Petrarch* Action) into this action. The motion is granted to the extent that this action and the *Petrarch* Action are consolidated for the purposes of discovery and joint trial.

CPLR 602 (a) provides that

“[w]hen actions involving a common question of law or fact are pending before a court, the court, upon motion, may order a joint trial of any or all the matters in issue, may order the actions consolidated, and may make such other orders concerning proceedings therein as may tend to avoid unnecessary costs or delay.”

“[T]here is a preference for consolidation in the interest of judicial economy where there are common questions of law and fact, unless the party opposing the motion demonstrates that consolidation will prejudice a substantial right.” (*Geneva Temps, Inc. v New World Communities, Inc.*, 24 AD3d 332, 334 [1st Dept 2005] [citations omitted].)

¹ Petrarch and Aboutaam were recently named third third-party defendants in this action. (NYSCEF 212, Third Third-Party Complaint.)

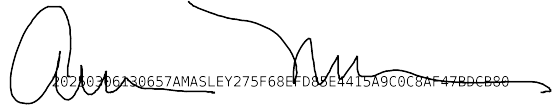
Here there are common questions of law and fact as there is an overlap in plaintiff's claims regarding certain loan agreements and collateral. Plaintiff's assertion that nonparty movants lack standing to bring this motion is moot because movants are now named as third third-party defendants in this action. (*See supra* n 1.) Further, plaintiff's assertions of potential confusion by any unrelated claims are unsubstantiated.

As per administrative directive (Adams, J.), this action and *Art Lending, Inc. v Petrarch LLC d/b/a Electrum, Tanis Antiquities, Ltd. and Hicham Aboutaam*, Index No. 653919/2024 shall be transferred to the Hon. Anar Rathod Patel.

ORDERED that the motion is granted, and this action is consolidated for the purposes of discovery and joint trial in this court (Masley, J.) with *Art Lending, Inc. v Petrarch LLC d/b/a Electrum, Tanis Antiquities, Ltd. and Hicham Aboutaam*, Index No. 653919/2024, pending in this court before the Hon. Gerald Lebovits; and it is further

ORDERED that, within 5 days from entry of this order, movants shall serve a copy of this order with notice of entry the General Clerk's Office, who shall transfer this action and *Art Lending, Inc. v Petrarch LLC d/b/a Electrum, Tanis Antiquities, Ltd. and Hicham Aboutaam*, Index No. 653919/2024 to Hon. Anar Rathod Patel (Part 45); and it is further

ORDERED that service of this order upon the General Clerk’s Office shall be made in accordance with the procedures set forth in the *Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases* (accessible at the “E-Filing” page on the court’s website).



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3/6/2025
DATE

ANDREA MASLEY, J.S.C.

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