

**Napoli Shkolnik, PLLC v
Law Off. of Andrew Park, P.C.**

2025 NY Slip Op 32952(U)

July 31, 2025

Supreme Court, New York County

Docket Number: Index No. 652125/2021

Judge: Hasa A. Kingo

Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op 30001(U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.

This opinion is uncorrected and not selected for official publication.

**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. HASA A. KINGO PART 05M

Justice

-----X

NAPOLI SHKOLNIK, PLLC,

Plaintiff,

- v -

LAW OFFICE OF ANDREW PARK, P.C.,

Defendant.

INDEX NO. 652125/2021

MOTION DATE 07/30/2025,
07/30/2025

MOTION SEQ. NO. 003 003

**DECISION + ORDER ON
MOTION**

-----X

LAW OFFICE OF ANDREW PARK, P.C., ANDREW PARK

Plaintiff,

-against-

NAPOLI SHKOLNIK, PLLC

Defendant.

Third-Party
Index No. 595499/2021

-----X

The following e-filed documents, listed by NYSCEF document number (Motion 003) 101, 102, 103, 104, 105, 106, 107, 108, 109, 114, 115, 116, 117, 118, 119, 120, 121

were read on this motion for DISMISSAL.

The following e-filed documents, listed by NYSCEF document number (Motion 003) 101, 102, 103, 104, 105, 106, 107, 108, 109, 114, 115, 116, 117, 118, 119, 120, 121

were read on this motion to PRECLUDE.

Plaintiff Napoli Shkolnik, PLLC (“Plaintiff”) moves for an order (i) dismissing the counterclaim asserted by Andrew Park, Esq. (“Mr. Park”) in his individual capacity; and/or (ii) granting summary judgment against all counterclaims due to evidentiary defaults, lack of legal capacity, and noncompliance with subpoenas. By cross-motion, Saasto, Park & Associates, P.C., appearing as the successor to Law Office of Andrew Park, P.C. (“Defendant” or “Successor Firm”), requests an order (i) amending the caption to reflect that Saasto, Park & Associates, P.C. as the proper party to this action; and (ii) precluding any reference at trial to Mr. Park’s June 2025 disbarment on the grounds that it is irrelevant, misleading, and prejudicial under CPLR § 4011 and Rule 4.06 of the New York Rules of Evidence.

BACKGROUND AND PROCEDURAL HISTORY

This action arises from a legal fee dispute involving several underlying personal injury matters in which Napoli and Defendants each claim entitlement to attorneys' fees following substitution of counsel. Plaintiff initiated this action in March 2021, naming both the Law Office of Andrew Park, P.C. and Andrew Park, Esq. individually. Defendants answered and interposed counterclaims in both capacities. Plaintiff's motion to dismiss claims against Andrew Park, Esq. personally was granted by order dated April 12, 2022 (NYSCEF Doc. No. 88). However, the caption and counterclaim were not simultaneously revised, resulting in Mr. Park remaining as a nominal party.

On June 10, 2025, Andrew Park, Esq. was disbarred by the Appellate Division, First Department, in *Matter of Park*, 2025 NY Slip Op 03531 (1st Dept 2025), for professional misconduct unrelated to the present dispute. In anticipation of disbarment, the Law Office of Andrew Park, P.C. amended its certificate of incorporation in November 2024 to become Saasto, Park & Associates, P.C., with new named principals Robert Saasto and Ahseon Park. Mr. Park ceased all involvement in the firm as of his disbarment date.

A jury trial was scheduled for July 15, 2025. Mr. Park, having been served with a judicial trial subpoena (NYSCEF Doc. No. 102, Ex. F), failed to appear. Plaintiff now seeks a range of relief based in part on that nonappearance.

ARGUMENTS

Plaintiff argues that Mr. Park's individual counterclaim must be dismissed based on prior judicial determinations and his failure to appear for trial despite valid service of a subpoena. Plaintiff further argues that Saasto, Park & Associates, P.C. lacks standing to prosecute the counterclaim, either because it is not the original claimant or because its continued operation after Mr. Park's disbarment violates Business Corporation Law § 1503(a) and Rule 5.4(d) of the New York Rules of Professional Conduct. Plaintiff contends that the court should deem facts admitted due to Mr. Park's failure to respond to 91 separate Notices to Admit under CPLR § 3123(a), and alternatively preclude Defendant from presenting evidence or testimony at trial. Finally, Plaintiff urges that Mr. Park's disbarment is relevant to his credibility, to the issue of capacity, and to the trustworthiness of his testimony, and should therefore not be excluded from trial.

Defendant, now appearing through its successor firm, agrees that Andrew Park, Esq. has no further personal claim or interest in the matter and requests that his name be stricken from the caption and the counterclaim dismissed *nunc pro tunc*. Defendant contends that Saasto, Park & Associates, P.C. is the rightful successor to Law Office of Andrew Park, P.C., and has legal capacity to maintain the counterclaim. Defendant argues that reference to Mr. Park's disbarment should be excluded under CPLR § 4011 and Rule 4.06 because the underlying disciplinary proceedings are irrelevant to the discrete question of legal fees owed for work performed prior to Mr. Park's disbarment, and because such evidence would unduly prejudice the jury.

DISCUSSION

A. Dismissal of Andrew Park, Esq. as an Individual Counterclaimant

The court previously dismissed all direct claims against Mr. Park individually by order dated April 12, 2022. The failure to contemporaneously dismiss his counterclaim appears to have been a clerical oversight. Defendant has now affirmatively moves to correct that oversight.

Accordingly, the counterclaim asserted by Mr. Park in his personal capacity is hereby dismissed with prejudice, *nunc pro tunc* to April 12, 2022. His continued presence as a named counterclaimant is an anomaly that no longer has legal effect. Because his individual claims are no longer at issue, his failure to appear at trial is immaterial to the disposition of the remaining fee dispute. No testimony or evidence unique to Mr. Park is necessary to resolve the quantum meruit claim now solely pursued by his former firm's successor.

B. Amendment of Caption to Substitute Saasto, Park & Associates, P.C.

The record contains undisputed proof that the Law Office of Andrew Park, P.C. amended its certificate of incorporation in November 2024 to become Saasto, Park & Associates, P.C., and that the successor firm continues to operate from the same address, with the same taxpayer identification number. There is no credible dispute as to continuity. Courts routinely permit substitution of corporate parties in such contexts, particularly when the amendment reflects an administrative name change rather than a transfer of assets (*see New Image Constr., Inc. v. TDR Enters. Inc.*, 74 AD3d 680, 681 [1st Dept 2010]; *LC Apartments LLC v. Trovato*, 72 Misc. 3d 429, 432 [Sup. Ct. N.Y. Co. 2020]).

Accordingly, the cross-motion is granted to the extent that the caption shall be amended to substitute "Saasto, Park & Associates, P.C." in place of "Law Office of Andrew Park, P.C." as Defendant and Counterclaim Plaintiff.

C. Preclusion of Disbarment Evidence

The court finds that evidence of Mr. Park's disbarment is inadmissible at trial under CPLR § 4011 and New York Rule of Evidence 4.06. The Appellate Division, First Department's disbarment decision in *Matter of Park*, 2025 NY Slip Op 03531, *supra*, makes clear that the underlying misconduct involved notarization irregularities and unauthorized recordings of clients—not matters related to any of the personal injury cases or fee entitlements at issue here. The disciplinary findings post-date the work performed in the cases giving rise to this fee dispute. Introduction of disbarment evidence thus has no probative value as to any claim or defense properly before the jury.

Furthermore, the potential for undue prejudice is high. Evidence of disbarment may lead the jury to unfairly conclude that Defendant's entitlement to fees is somehow negated by Mr. Park's professional discipline. This risk of confusion and unfair prejudice substantially outweighs any marginal relevance (*see People v. Sandoval*, 34 NY2d 371 [1974]; *Mazella v. Beals*, 27 NY3d

694 [2016]). As such, Plaintiff is precluded from introducing any evidence or testimony regarding Mr. Park's disbarment.

Similarly, Defendant is barred from offering any evidence or testimony concerning the disbarment of any non-party attorneys, past or present, affiliated with Napoli Shkolnik, PLLC, as such information is entirely irrelevant.

D. Legal Capacity to Maintain the Counterclaim

Plaintiff's argument that Saasto, Park & Associates, P.C. lacks legal capacity under BCL § 1503(a) and Rule 5.4(d) is unpersuasive. The record includes uncontroverted affirmations that Mr. Park ceased all association with the successor firm following his disbarment, and that the current principals are Robert Saasto and Ahseon Park. No evidence has been presented that Mr. Park remains a shareholder, officer, or director of the firm. The bar to disbarred attorneys practicing law under BCL § 1503(a) does not preclude a professional corporation from continuing operations so long as it remains under the control of duly admitted attorneys.

Thus, the court finds that Saasto, Park & Associates, P.C. retains legal capacity to pursue its counterclaim, and Plaintiff's motion for dismissal on that ground is denied.

E. Notices to Admit and Preclusion Based on Trial Subpoena

The record reflects that Saasto, Park & Associates, P.C. did in fact serve responses to the Notices to Admit, albeit with general denials. Plaintiff's request to deem the facts admitted is therefore denied. As for Mr. Park's failure to appear at trial, his appearance is no longer required given that his counterclaim has been dismissed, and he is not a necessary witness to the claims remaining. Preclusion or contempt sanctions are therefore unnecessary and inappropriate (*see Hernandez v. City of New York*, 95 AD3d 793, 794 [1st Dept 2012]; *Ludwigsen v. American Transp. Lines*, 242 AD2d 523 [2d Dept 1997]).

Accordingly, it is:

ORDERED that the counterclaim asserted by Andrew Park, Esq. in his individual capacity is hereby dismissed with prejudice, *nunc pro tunc* to April 12, 2022; and it is further

ORDERED that the cross-motion to amend the caption is granted, and the caption shall henceforth read as follows:

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X

NAPOLI SHKOLNIK, PLLC,

Index No: 652125/2021

Plaintiff,

-against-

SAASTO, PARK & ASSOCIATES, P.C.,

Defendant.

-----X

SAASTO, PARK & ASSOCIATES, P.C.,

Third-Party Index No.
595499/2021

Counterclaim Plaintiff,

-against-

NAPOLI SHKOLNIK, PLLC,

Counterclaim Defendant.

-----X

; and it is further

ORDERED that the Clerk of the Court shall amend the captions of the above-referenced actions to reflect the substitution of Saasto, Park & Associates, P.C. in place of Law Office of Andrew Park, P.C., as set forth herein; and it is further

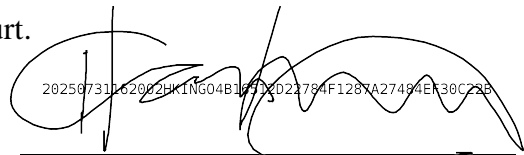
ORDERED that Plaintiff is precluded from introducing evidence or testimony concerning the disbarment of Andrew Park, Esq. at trial; and it is further

ORDERED that Defendant is precluded from introducing evidence or testimony concerning the disbarment of any non-party attorneys currently or previously associated with Napoli Shkolnik, PLLC, at trial; and it is further

ORDERED that Plaintiff's motion to deem facts admitted and to dismiss the remaining counterclaim based on lack of capacity or failure to comply with trial subpoenas is denied; and it is further

ORDERED that jury selection shall commence as scheduled on August 4, 2025.

This constitutes the decision and order of the court.



20250731162002H KINGO4B1073ED21794F128YA27464ER30C285

HASA A. KINGO, J.S.C.

7/31/2025
DATE

CHECK ONE:

CASE DISPOSED
GRANTED DENIED
SETTLE ORDER
INCLUDES TRANSFER/REASSIGN

NON-FINAL DISPOSITION
GRANTED IN PART
SUBMIT ORDER
FIDUCIARY APPOINTMENT

OTHER
REFERENCE