

**Dime Community Bank v Andrew Michael Fisher  
Consulting LLC**

2025 NY Slip Op 32990(U)

July 25, 2025

Supreme Court, Kings County

Docket Number: Index No. 526928/24

Judge: Richard Velasquez

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This opinion is uncorrected and not selected for official publication.

At an IAS Term, Part 66 of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse, at Civic Center, Brooklyn, New York, on the 25<sup>th</sup> day of July, 2025.

P R E S E N T:

HON. RICHARD VELASQUEZ,  
Justice.

-----X  
DIME COMMUNITY BANK, successor by merger  
to BNB BANK,

Petitioner,

- against -

ANDREW MICHAEL FISHER CONSULTING LLC  
and CHARISSE GREEN

Respondent Transferees,

M&T BANK CORPORATION  
and JP MORGAN CHASE BANK, N.A.,

Respondent Garnishees,

ANDREW FISHER,

Respondent Judgment Debtor.  
-----X

**DECISION AND JUDGMENT**

Index No. 526928/24

Mot. Seq. No. 1

The following e-filed papers read herein:

NYSCEF Doc No.:

Order to Show Cause, Petition, Affidavits (Affirmations),  
and Exhibits Annexed \_\_\_\_\_  
Interim Order \_\_\_\_\_

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In this special proceeding commenced by Dime Community Bank, as successor by merger to BNB Bank (Petitioner), against Andrew Fisher, respondent judgment debtor (Respondent), and his purported transferees and garnishees (collectively, the Additional Respondents), Petitioner moved by Ex Parte Order to Show Cause with Temporary Restraining Order, dated October 18, 2024 (Boddie, J.) (NYSCEF Doc No. 19), for an order, pursuant to CPLR 5225 (b) and 5227, directing the applicable Additional Respondents “to turn over all monies and proceeds contained in all [applicable] bank

accounts . . . to Petitioner [in amounts] sufficient to pay” a certain Order and Judgment, dated January 5, 2023 (the Judgment) (NYSCEF Doc No. 2), entered by Honorable Elizabeth H. Emerson in the underlying action titled *Dime Community Bank, successor by merger to BNB Bank v Andrew Fisher, et al.*, index No. 610477/22, which was filed and prosecuted by Petitioner against Respondent (among others) in Supreme Court, Suffolk County (the Home Court). Following the entry of the Judgment in the underlying action, Petitioner and Respondent (among others) entered into a Stipulation of Settlement which was so-ordered by Justice Emerson of the Home Court on February 2, 2023 (the Stipulation of Settlement) (NYSCEF Doc No. 3). The Stipulation of Settlement provided (in ¶ 21 on page 9 thereof) that:

“This Stipulation is entered into under, and shall be governed by, and construed in accordance with, the internal laws of the State of New York without regard to such jurisdiction’s principles of conflicts of law. *Each Party agrees that all claims, disputes, and other matters arising out of or relating to this Stipulation [of Settlement], or the breach thereof, shall be decided by proceedings instituted and litigated in the New York State Supreme Court, sitting in the County of Suffolk, and each Party hereby submits to personal jurisdiction and venue in said court*” (emphasis added).

Following Respondent’s payment default under the Stipulation of Settlement, “Petitioner . . . served [Respondent] with a subpoena duces tecum and ad testificandum (the ‘Subpoena’) pursuant to CPLR . . . 5224,” which Subpoena was issued by the Home Court of Suffolk County (Verified Petition, dated October 2, 2024, ¶ 13) (NYSCEF Doc No. 1). “In connection with the Subpoena, on June 10, 2024, [Respondent] appeared for a deposition, under oath and upon oral questions[, in the underlying action in the Home Court]” (Verified Petition, ¶ 13). A transcript of Respondent’s post-judgment deposition

was filed by Petitioner as an exhibit to its petition (NYSCEF Doc No. 6).<sup>1</sup> In the course of the post-judgment deposition, Respondent identified his New Jersey-based employer, as well as identified the Additional Respondents as the recipients (either immediate or final) of his employment income. Approximately six months later on October 3, 2024, Petitioner commenced the instant proceeding in Kings County Supreme Court (rather than in the Home Court of Suffolk County) to compel the Additional Respondents to turn over Respondent's funds to Petitioner in satisfaction of the Judgment in the underlying action. By order, dated November 20, 2024, the Court marked for submission the order to show and the underlying petition (NYSCEF Doc No. 25).

As noted, the Stipulation of Settlement specified the Home Court of Suffolk County (which was the court which tried the underlying action) as the mandatory venue for “all claims, disputes, and other matters arising out of or relating to this Stipulation [of Settlement], or the breach thereof.” In fact, Respondent previously testified at a post-judgment deposition which was conducted pursuant to the Subpoena issued from the Home Court of Suffolk County. Nothing in the record indicates (or even suggests) that the post-judgment enforcement proceedings in Suffolk County (rather than in Kings County) “would be so gravely difficult and inconvenient that [Petitioner] would, for all practical purposes, be deprived of [its] day in court” (*JD2 Realty Mgt. LLC v Evojets LLC*, 221 AD3d 407, 408 [1st Dept 2023] [internal quotation marks omitted]; *see also British*

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<sup>1</sup> The post-judgment deposition transcript was not signed by Respondent, nor did it otherwise comply with CPLR 3116 (a).

*W. Indies Guar. Tr. Co., Ltd. v Banque Internationale a Luxembourg*, 172 AD2d 234 [1st Dept 1991]; *DiRuocco v Flamingo Beach Hotel & Casino, Inc.*, 163 AD2d 270, 271-272 [2d Dept 1990]).

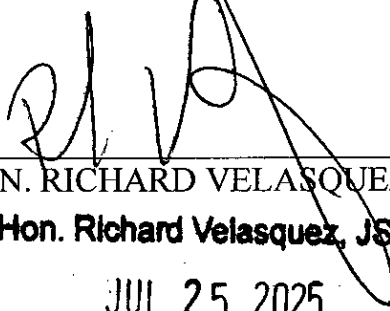
Accordingly, it is ORDERED that in Seq. No. 1, Petitioner’s Ex Parte Order to Show Cause with Temporary Restraining Order, dated October 18, 2024 (Boddie, J.) (NYSCEF Doc No. 19), is *vacated nunc pro tunc* to its original date of issuance; and it is further

ORDERED that the instant proceeding is *dismissed without prejudice* to recommence (should Petitioner be so advised) in Supreme Court, Suffolk County; and it is further

ORDERED that Petitioner’s counsel is directed to serve a copy of this Decision and Judgment with notice of entry by first-class mail, return receipt requested, on Respondent and on each of the Additional Respondents, and to electronically file an affidavit of service thereof with the Kings County Clerk.

This constitutes the Decision and Judgment of the Court.

ENTER FORTHWITH,



HON. RICHARD VELASQUEZ, J.S.C.

**Hon. Richard Velasquez, JSC**

JUL 25 2025

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KINGS COUNTY CLERK FILED