

**Sadick Aesthetic Surgery & Dermatology, P.C. v Desai**

2025 NY Slip Op 33096(U)

August 13, 2025

Supreme Court, New York County

Docket Number: Index No. 650813/2024

Judge: Arlene P. Bluth

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This opinion is uncorrected and not selected for official publication.

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

**PRESENT: HON. ARLENE P. BLUTH PART 14**

*Justice*

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SADICK AESTHETIC SURGERY AND DERMATOLOGY,  
P.C., SADICK CONSULTING GROUP, LLC, SADICK  
RESEARCH GROUP LLC, NEIL SADICK

Plaintiffs,

- v -

MOHIT DESAI, ACCOUNTING & TAX CONSULTANTS INC,  
MOHIT DESAI, CPA'S PC,

Defendants.

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INDEX NO. 650813/2024

MOTION DATE 08/07/2025

MOTION SEQ. NO. 001

**DECISION + ORDER ON  
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 001) 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 52, 53

were read on this motion to/for QUASH SUBPOENA, FIX CONDITIONS.

Defendants' motion to quash plaintiffs' subpoena duces tecum and ad testificandum directed to non-party Katz Sapper & Miller LLP ("KSM") is granted.

**Background**

Plaintiffs bring this action on the claim that defendants engaged in a fraudulent scheme to embezzle funds from plaintiffs. They contend that they hired defendants to help restructure their businesses, provide accounting and tax advisory services and make them more profitable and that defendant Desai took control of plaintiff's finances, even taking on the role of Chief Financial Officer. Plaintiffs argue that defendants eventually took nearly \$5 million between 2019 and 2023.

In this motion, defendants seek to quash a subpoena issued by plaintiff to KSM. They observe that KSM (an accounting firm) was defendant Desai's former employer and that the

subpoena seeks personal records and documents relating to a “gambling problem.” Defendants argue that there is no allegation in any of the pleadings about any losses arising from gambling. They insist that the subpoena far exceeds the permissible scope of discovery.

Defendants contend that KSM has no relevance to this action and emphasize that KSM does not appear anywhere in the pleadings and the subpoena fails to explain KSM’s connection to this case. They insist that the subpoena contains overbroad requests for information. Defendants argue that the subpoena is designed to harass defendant Desai by obtaining personal information that has no relationship to the allegations in this action.

In opposition, plaintiffs claim that they are entitled to know what defendant Desai did at KSM and whether he engaged in misconduct similar to the misconduct alleged in the complaint. They argue that they are entitled to information about Mr. Desai’s wrongful intent, including about his knowledge concerning best accounting practices. Plaintiffs argue that Mr. Desai did not devote much time working on behalf of plaintiffs, other than bookkeeping, and instead delegated the work to two of his friends. They argue that Mr. Desai took more than he was entitled to receive as compensation and took improper loan repayments as well as reimbursements.

Plaintiffs argue that Mr. Desai worked at KSM the entire time he was purportedly defrauding them and point out that the parties have entered into a confidentiality agreement, thereby mitigating any privacy concerns.

In reply, defendants point out that plaintiffs allege both that Mr. Desai absconded with plaintiffs’ funds without their knowledge but also that plaintiff’s principal (Dr. Sadick) signed all of the checks presented to him without any backup documentation. Defendants emphasize that the records sought from KSM do not bear on whether or not Mr. Desai embezzled funds from

plaintiffs. They argue that KSM has no relationship to the filing of plaintiffs' tax returns, KSM gave no accounting advice to plaintiffs and did not oversee Mr. Desai's work for plaintiffs.

### Discussion

“An application to quash a subpoena should be granted only where the futility of the process to uncover anything legitimate is inevitable or obvious ... or where the information sought is utterly irrelevant to any proper inquiry. It is the one moving to vacate the subpoena who has the burden of establishing that the subpoena should be vacated under such circumstances (*Matter of Kapon v Koch*, 23 NY3d 32, 38-39 [2014]).

The first question for this Court is the relevance of the information demanded from Mr. Desai's former employer. This Court finds that the subject matter in the subpoena is wholly irrelevant, and plaintiffs did not raise an adequate justification for the information requested. For instance, plaintiffs seek “Any and all Documents and Communications concerning whether Desai had a gambling problem” (NYSCEF Doc. No. 36, ¶ 4). And yet, as defendants point out, plaintiffs did not substantiate that Mr. Desai had (or has) a gambling problem and, more importantly, they did not explain what information they expect KSM to have about it. Put another way, even if Mr. Desai had an issue with gambling, it is unclear how demanding KSM produce documents and a witness about this topic would yield any relevant information. This Court declines to make KSM expend time and resources to search its records about an alleged issue where plaintiffs did not meet their prima facie burden to show that KSM is likely to possess such knowledge.

Consider two other requests: “Any and all Documents and Communications concerning any alleged acts of malfeasance or misfeasance by any of the Defendants or their representatives” and “Any and all Documents and Communications concerning any civil or

criminal complaints concerning any of the Defendants” (*id.* ¶¶ 2, 6). Again, plaintiffs failed to show a basis for requesting this information from Mr. Desai’s prior employer. The record contains no indication that Mr. Desai engaged in wrongful conduct that caused harm to KSM or how these requests would yield relevant information for this case. Instead, KSM is left with vague and overbroad requests (“any alleged acts of malfeasance or misfeasance” – does taking a pack of office pens count?); such requests do not appear to have anything to do with the allegations in this case. That is, they do not tend to prove (or disprove) plaintiffs’ theory concerning Mr. Desai’s purported embezzlement from plaintiffs. There is no allegation that KSM knew about the acts detailed in the complaint or that information was stored on KSM’s servers that cannot be accessed any other way.

### Summary

Plaintiffs are correct that Courts must employ a liberal discovery standard that permits exploration of a wide range of issues. But discovery must be tethered to some allegation or component of a case. Here, plaintiffs describe in great detail their theory of defendants’ actions—in fact, they devoted substantial time talking about the underlying merits of their case in their opposition (*see* NYSCEF Doc. No. 47 at 1-5). But plaintiffs did not devote enough time to explaining why they need information from a nonparty that, on this motion, had nothing to do with plaintiffs’ causes of action. They did not argue that KSM was involved or that only KSM possesses certain records.

Instead, the subpoena appears to seek information that is intended to cast Mr. Desai in a negative light by asking about a purported gambling problem, the misuse of funds, alleged acts of malfeasance (whatever that means) and any civil or criminal complaints (NYSCEF Doc. No. 36). That is not a proper purpose for a subpoena served on a non-party. Discovery is intended to

reveal relevant information, not be used as a cudgel to find any and all negative information about an opposing party. It may be that plaintiffs are able to prove that Mr. Desai improperly took funds, but that does not require a non party to expend resources to search for anything negative it may possibly possess about defendants regardless of its connection to the allegations in this case.

Accordingly, it is hereby

ORDERED that defendants' motion to quash the subpoena served on KSM is granted.

See NYSCEF Doc. No. 51 regarding the next conference.

8/13/2025

DATE

  
ARLENE P. BLUTH, 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