

**White Oak Commercial Fin., LLC v NY & Co Ecomm  
LLC**

2025 NY Slip Op 33157(U)

August 20, 2025

Supreme Court, New York County

Docket Number: Index No. 650682/2024

Judge: Andrea Masley

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  
COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 48

-----X

WHITE OAK COMMERCIAL FINANCE, LLC,  
  
Plaintiff,

- v -

NY AND CO ECOMM LLC, FASHION TO FIGURE  
ECOMM LLC, LORD & TAYLOR ECOMM LLC, LETOTE  
ECOMM LLC, AQUATALIA ECOMM LLC, JOSEPH  
SAADIA, JACK SAADIA, NY AND CO IP LLC, FASHION  
TO FIGURE IP LLC, SAADIA GROUP LLC, RTW  
RETAILWINDS ACQUISITION LLC, LORD & TAYLOR  
ACQUISITIONS LLC, LORD & TAYLOR IP LLC, LETOTE  
IP LLC, AQUATALIA IP LLC, 501 JERSEY AVENUE LLC,  
BROOK WAREHOUSING AND DISTRIBUTION LLC, 1735  
JERSEY AVENUE PROPERTY, LLC, SAADIA  
DISTRIBUTION LLC, 1000 STONY BATTERY  
PROPERTY OWNER LLC, and 1000 STONEY BATTERY  
ROAD LLC,

Defendants.

-----X

INDEX NO. 650682/2024

MOTION DATE --

MOTION SEQ. NO. 006

**DECISION + ORDER ON  
MOTION**

HON. ANDREA MASLEY:

The following e-filed documents, listed by NYSCEF document number (Motion 006) 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 216, 217, 218, 219, 220, 221, 222, 223, 226, 227, 228, 249, 257, 258, 259, 260, 261, 262, 263, 264

were read on this motion to/for STRIKE PLEADINGS.

In mot. seq. no. 006, plaintiff White Oak Commercial Finance, LLC moves by Order to Show Cause (1) pursuant to CPLR 3126(3) to strike the answer of defendants 501 Jersey Avenue LLC, Brook Warehousing and Distribution LLC, 1735 Jersey Avenue Property, LLC, Saadia Distribution LLC, 1000 Stony Battery Road Property Owner LLC, 1000 Stoney Battery Road LLC, and Jack Saadia (collectively, Warehouse Defendants) and for a default judgment against them on liability, jointly and severally, with defendants NY & Co Ecomm LLC, Fashion to Figure Ecomm LLC, NY and Co IP LLC, Fashion to Figure IP LLC, RTW Retailwinds Acquisition LLC, Saadia Group LLC,

Lord & Taylor Ecomm LLC, Lord & Taylor IP LLC, LeTote Ecomm LLC, LeTote IP LLC, Aquatalia Ecomm LLC, and Aquatalia IP LLC (collectively, Loan Defendants) for the amounts owed to plaintiff under the Loan Agreement (as defined in NYSCEF Doc. No. [NYSCEF] 2, Complaint), “as same will be determined pursuant to the judicial reference ordered by the court (NYSCEF 177), as a sanction for the Warehouse Defendants’ failure to comply with this Court’s discovery orders”; (2) “expand[] the scope of the judicial hearing previously ordered by this Court to include plaintiff’s attorneys’ fees, costs and expenses incurred in connection with enforcing its rights under the Loan Agreement”; and (3) “direct[] the Loan Defendants to transfer to Plaintiff the loss proceeds of \$363,605.23 received from ACE American Insurance Company in or around May 2024.” (NYSCEF 211, Order to Show Cause.)

The relief sought in item (3) was granted. (See NYSCEF 226, Amended Order – Interim at 3 [mot. seq. no. 006].)

Defendants have continuously failed to produce documents responsive to plaintiff’s document demands and respond to interrogatories. (See NYSCEF 170, Decision and Order at 1 [mot seq. no. 005] [ordering that document requests and interrogatories be served by January 17, 2025, responses be served by January 31, 2025, and documents be produced by February 14, 2025]; NYSCEF 182, March 2, 2025 Order at 1-2 [noting that per plaintiff, defendants “objected or provided deficient answers to all interrogatories” and “admitted that defendants’ document production did not occur by February 14, 2025 as ordered by this court” and extending deadline to produce documents until March 21, 2025]; NYSCEF 195, March 28, 2025 Order at 1 [noting that per plaintiff’s counsel, defendants’ production of 71 pages is unresponsive

to plaintiff's document demands]; NYSCEF 226, Amended Order – Interim at 2-4 [mot. seq. no. 006] [rejecting defendants' argument that due to defendants' objections, which were not provided to the court, there is no need to produce documents, and ordering production be completed and answers to interrogatories be served by June 6, 2025].)

For the reasons stated on the record on July 23, 2025, the court granted the motion to the extent plaintiff seeks to strike the answer of the Warehouse Defendants pursuant to CPLR 3126(3) and grant a default judgment against them. (See NYSCEF 264, tr at 30:4-17.) The court, however, provides defendants with a final opportunity to comply with their discovery obligations (see *id.* at 31:1-6, 31:8-14); by August 27, 2025, defendants shall supplement their document production with the missing documents identified by plaintiff and supplement their interrogatory responses. (See NYSCEF 257, Amato<sup>1</sup> aff.) By August 29, 2025, plaintiff shall e-file and email (sfc-part48@nycourts.gov) an affidavit of compliance. A further order will follow after August 29, 2025.

To the extent plaintiff seeks to “expand[] the scope of the judicial hearing previously ordered by this Court to include plaintiff's attorneys' fees, costs and expenses incurred in connection with enforcing its rights under the Loan Agreement” (NYSCEF 211, Order to Show Cause), the motion is denied without prejudice. Plaintiff seeks reasonable attorneys' fees and costs incurred in connection with enforcing plaintiff's rights under the Amended Loan Agreement in the first and second causes of action. (NYSCEF 2, Complaint ¶¶ 92, 96.) The request for an expanded reference is denied as plaintiff has failed to demonstrate its entitlement to attorneys' fees, costs, and

---

<sup>1</sup> John P. Amato is plaintiff's counsel. (NYSCEF 257, Amato aff ¶ 1.)  
650682/2024 WHITE OAK COMMERCIAL FINANCE, LLC vs. NY AND CO ECOMM LLC ET AL  
Motion No. 006

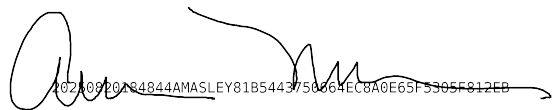
expenses sought. Indeed, in support of its request on this motion, plaintiff cites no contract provision pursuant to which plaintiff is entitled to attorneys’ fees, costs, and expenses sought. (See *Sage Sys., Inc. v Liss*, 39 NY3d 27, 30-31 [2022] [“Under the American Rule, attorney’s fees are incidents of litigation and a prevailing party may not collect them from the loser unless an award is authorized by agreement between the parties, statute or court rule” (internal quotation marks and citation omitted)].)

Accordingly, it is

ORDERED that the motion is granted, in part, to the extent that plaintiff seeks to strike the answer of the Warehouse Defendants pursuant to CPLR 3126(3) and grant a default judgment against them, conditionally upon defendants’ failure to supplement its production and interrogatory responses by August 27, 2025; and it is further

ORDERED that by August 29, 2025, plaintiff shall e-file and email (sfc-part48@nycourts.gov) an affidavit of compliance; and it is further

ORDERED that the motion is denied, in part and without prejudice, to the extent that plaintiff seeks to “expand[] the scope of the judicial hearing previously ordered by this Court to include plaintiff’s attorneys’ fees, costs and expenses incurred in connection with enforcing its rights under the Loan Agreement.” (NYSCEF 211, Order to Show Cause).



8/20/2025  
DATE

\_\_\_\_\_  
ANDREA MASLEY, J.S.C.

CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION	
	<input type="checkbox"/>	GRANTED	<input type="checkbox"/>	GRANTED IN PART	<input type="checkbox"/>
	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>	SUBMIT ORDER	
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input type="checkbox"/>
					<input type="checkbox"/>
					REFERENCE