

A.N.L.Y.H. Invs. LP v JDS Principal Highline LLC

2025 NY Slip Op 33301(U)

September 4, 2025

Supreme Court, New York County

Docket Number: Index No. 651757/2022

Judge: Joel M. Cohen

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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 03M

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A.N.L.Y.H. INVESTMENTS LP,
Plaintiff,

- v -

JDS PRINCIPAL HIGHLINE LLC, JDS CONSTRUCTION
GROUP LLC, MICHAEL STERN,
Defendants.

INDEX NO. 651757/2022

MOTION DATE 06/10/2025

MOTION SEQ. NO. 005

**DECISION + ORDER ON
MOTION**

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JDS PRINCIPAL HIGHLINE LLC
Plaintiff,

-against-

ACKERMAN MANAGEMENT AND DEVELOPMENT LLC
A/K/A ACKERMAN DEVELOPMENT, ARIEL ACKERMAN
Defendants.

Third-Party
Index No. 595467/2022

-----X

JDS CONSTRUCTION GROUP LLC, MICHAEL STERN
Plaintiffs,

-against-

ACKERMAN MANAGEMENT AND DEVELOPMENT LLC,
ARIEL ACKERMAN
Defendants.

Second Third-Party
Index No. 595307/2023

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HON. JOEL M. COHEN:

The following e-filed documents, listed by NYSCEF document number (Motion 005) 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171

were read on this motion to COMPEL DISCOVERY.

A.N.L.Y.H. Investments LP a/k/a ANLYH LP, LLC’s (“Plaintiff”) moves for an Order, pursuant to CPLR 3124, compelling Defendant JDS Principal Highline LLC (“JDS Highline”) to

supplement its document production; granting Plaintiff leave to move for a negative inference pursuant to CPLR 3126 should JDS Highline fail to make a complete document production; compelling JDS Highline Produce its principal, Defendant Michael Stern, for a deposition; finding that JDS Highline has forfeited deposition priority; extending all discovery deadlines for 30 days; and granting Plaintiff attorneys' fees and costs associated with this motion. JDS Highline opposes this motion. For the following reasons, Plaintiff's motion is granted in part.

Pursuant to CPLR 3101, "[t]here shall be full disclosure of all matter material and necessary in the prosecution or defense of an action." (CPLR 3101[a]). "The words, 'material and necessary', are . . . to be interpreted liberally to require disclosure, upon request, of any facts bearing on the controversy which will assist preparation for trial by sharpening the issues and reducing delay and prolixity. The test is one of usefulness and reason" (*Allen v Crowell-Collier Pub. Co.*, 21 NY2d 403, 406 [1968]).

The Court has reviewed Plaintiff's requests and finds the following:

JDS Highline is directed to complete its search for any responsive external messages (including text, instant messages, and WhatsApp) between Mr. Stern and any other party (including ANLYH's principal Rubin Schlusel and the Ackerman Parties¹) and JDS Highline must produce all responsive external messages in its possession, custody or control, including those saved on Mr. Stern's devices – not simply search the Ackerman Parties' production for responsive communications.

As to internal communications among JDS Highline employees and agents concerning the Loan and payments at issue, JDS Highline submits that it has no responsive internal

¹ Third-Party and Second Third-Party Defendants Ackerman Management and Development LLC a/k/a Ackerman Development, Ariel Ackerman (the "Ackerman Parties").

communications but has provided no verified account of its search. JDS Highline is directed to provide a *Jackson* affidavit with respect to its search for responsive documents and the result of that search (see *Jackson v City of New York*, 185 AD2d 768 [1st Dept 1992]).

As to the ledgers, Plaintiff has demonstrated that the full ledger entries are central to the issue of how defendants recorded and booked payments to the Ackerman Parties. JDS Highline's argument that it should not have to produce "a ledger from non-party JDS Construction that [Plaintiff] already has" (NYSCEF 166 at 5) is unavailing since JDS Highline placed JDS Construction's records at issue by relying on payments from this entity as alleged evidence of repayment of the loan at issue. If JDS Highline intends to rely on that defense, JDS Highline must produce the full ledger entries.

JDS Highline is also directed to produce payor/payee information for all claimed payments on the loan, including wire transfer confirmations for the payments cited by Plaintiff, without redaction of the identity of the payor since JDS Highline is affirmatively relying on these payments as an alleged offset to the amount under the Loan (unless JDS Highline provide a legally cognizable basis for the redaction).

The Court will grant Plaintiff leave to move for a negative inference pursuant to CPLR 3126 should JDS Highline fail to make a complete document production as directed.

As to depositions, JDS Highline is directed to produce Mr. Stern for a deposition as JDS Highline's corporate representative within thirty (30) days of the date of this Order. The parties may take virtual depositions of Mr. Stern and Mr. Schlüssel, or alternatively the party taking the deposition can travel to the location of the witness and take the deposition live.

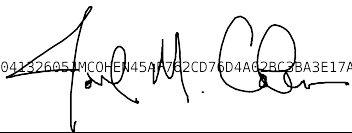
Finally, the Court will extend all discovery deadlines for 30 days from the date of this Order. The parties are directed to file a stipulation within seven (7) days of the date of this Order reflecting that extension.

The Court has considered the parties' remaining arguments and finds them unavailing.

Accordingly, it is

ORDERED that Plaintiff's Motion is **GRANTED** as follows: (i) JDS Highline is directed to produce the following within fifteen (15) days of the date of this Order: external messages, internal communications or certify via *Jackson* affidavit that there are none, full ledgers as directed, and payor/payee information for all claimed payments on the loan at issue; (ii) JDS Highline is directed to produce Mr. Stern for a deposition as JDS Highline's corporate representative; (iii) Plaintiff has leave to move for a negative inference pursuant to CPLR 3126 should JDS Highline fail to make a complete document production as directed; and (iv) all discovery deadlines are extended for 30 days from the date of this Order, and the parties are directed to file a stipulation within seven (7) days of the date of this Order reflecting that extension; the motion is otherwise **denied**.

This constitutes the decision and order of the Court.

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JOEL M. COHEN, J.S.C.

9/4/2025

DATE

CHECK ONE:

CASE DISPOSED
GRANTED DENIED
SETTLE ORDER
INCLUDES TRANSFER/REASSIGN

NON-FINAL DISPOSITION
GRANTED IN PART OTHER
SUBMIT ORDER
FIDUCIARY APPOINTMENT REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: