

Robins v Wenn Ltd

2025 NY Slip Op 33527(U)

September 19, 2025

Supreme Court, New York County

Docket Number: Index No. 654927/2019

Judge: Debra A. James

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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. DEBRA A. JAMES

PART 59

Justice

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INDEX NO. 654927/2019

STEVEN ROBINS and ROCKWELLS WOLFS LANE LLC,

MOTION DATE 09/18/2025

Plaintiffs,

MOTION SEQ. NO. 004

- v -

WENN LTD,

DECISION + ORDER

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 004) 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 124, 125, 127

were read on this motion to/for STRIKE CASE FROM CALENDAR.

ORDER

Upon the foregoing documents, it is

ORDERED that to the extent it seeks to vacate the note of issue (NYSCEF Document Number 107) and strike the action from the Trial Calendar or to strike plaintiffs' complaint for failure to comply with discovery conference orders, the motion, pursuant to 22 NYCRR 202.(e) and CPLR § 3126, of defendant is denied; and it is further

ORDERED that defendant shall forthwith upload on NYSCEF a copy of this order with notice of entry; and it is further

ORDERED that to the extent that it seeks to modify the Discovery Status Conference Order dated January 25, 2025, to the extent that it determined that defendant had waived its right to depose plaintiffs and to extend defendant's time to complete

depositions of plaintiffs, the motion of defendant is granted and the defendant shall be permitted to take depositions of plaintiffs, provided that such depositions are completed within sixty (60) days from service of a copy of this order with notice of entry; and it is further

ORDERED that plaintiffs shall appear for a deposition at the office of counsel for defendant within such 60-day period on a date and at a time convenient to both sides; and it is further

ORDERED that the witness at any such deposition(s) shall have ten weekdays from the date that the transcript is provided to such witness(es)' attorney to sign and verify such deposition transcript, in lieu of the period set forth in CPLR 3116(a); and it is further

ORDERED to the extent that it seeks a properly verified affidavit relating to any records that plaintiffs admit existed but that plaintiffs are unable to locate, as per Jackson v City of New York, 185 AD2d 768 (1st Dept 1992), the motion of defendant to compel such affidavit is granted, and plaintiff(s) shall provide such affidavit(s) with details of its search for such record(s), properly verified, to defendant, within thirty (30) days from service of a copy of this order with notice of entry; and it is further

ORDERED to the extent that defendant seeks a copy from plaintiff of the Acris Report of sale of \$15 million, which

defendant contends was not attached to records disclosed by plaintiffs, the motion of defendant to compel compliance is granted; and it is further

ORDERED that within thirty (30) days from service of a copy of this order with notice of entry, plaintiffs shall produce to defendant, with a transmittal letter, which transmittal letter only shall be posted on NYSCEF, a copy of such Acris Report; and is further

ORDERED to the extent that defendant seeks "an agreement entered into 'on or about 2016' with defendant", and plaintiffs disclosed in their Response to Demand of Documents filed (improperly, as same should have been exchanged among counsel only, NYSCEF Document No 91, at paragraph 3 re: "Exhibit B"), within thirty (30) days of service of a copy of this order with notice of entry, plaintiffs shall reconcile and/or correct the itemized log that states "No written agreement" at paragraphs 3, 4 and 5 of such log (NYSCEF Document Number 126); and it is further

ORDERED that to the extent that plaintiff(s) do(es) not follow the directives in above decretal paragraphs 3, 4, or 5, defendant shall, within forty-five (45) days of the date hereof, post on NYSCEF a proposed amended status conference order, including WHEREAS clauses that specify the record(s) in question, which directs that defendant shall have a negative inference with respect

to any such record(s) that plaintiff(s) has/have failed to produce; and it is further

ORDERED that, within forty-five (45) days of service of a copy of this order with notice of entry, plaintiffs may post on NYSCEF a proposed amended status conference order, with WHEREAS clauses that set forth the records produced in accordance with the above directives, which denies defendant such negative inference(s); and it is further

ORDERED that, except as exhibits to motions or for demands for bills of particulars and responses thereto (as latter constitute an amplification of the pleadings), counsel **shall refrain** from posting on NYSCEF discovery demands or responses thereto, as same unnecessarily and **improperly** clutters the docket, and should be exchanged among counsel only; see In Re Westchester Rockland Newspapers, Inc., 66 AD2d 335, 338 (2nd Dept 1979); and are **not for public viewing** on the official public court docket, and see also, Scollo v Good Samaritan Hosp, 175 AD2d 278, 279 (2d Dept 1991) ("Pretrial discovery" "are not 'sittings of court'", "are conducted in private as a matter of modern practice", and "is not a public component of a trial"); and it is further

ORDERED that no later than December 1, 2025, counsel shall confer with the Clerk of the Trial Assignment Part 40 to secure a date for mediation/trial.

Debra A. James

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9/19/2025

DATE

DEBRA A. JAMES, 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