

Noka v Gashi

2025 NY Slip Op 33630(U)

September 26, 2025

Supreme Court, New York County

Docket Number: Index No. 152858/2020

Judge: Debra A. James

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

PRESENT: HON. DEBRA A. JAMES

PART 59

Justice

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BLEDAR NOKA,

Plaintiff,

- v -

SKENDER GASHI, ASTRIT BRAHAJ, AGRON SHYTI, and
ANGELETTO 2ND AVE INC.

Defendants.

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INDEX NO. 152858/2020

MOTION DATE 09/26/2025

MOTION SEQ. NO. 003 004

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 003) 50, 51, 52, 53, 54, 55, 56, 57, 58, 59

were read on this motion to/for MISCELLANEOUS.

The following e-filed documents, listed by NYSCEF document number (Motion 004) 63, 64, 65, 66, 67

were read on this motion to/for JUDGMENT - SUMMARY.

ORDER

Upon the foregoing documents, it is

ORDERED that to the extent that it seeks a direction that the issue of the amount owed by defendants Astrit Brahaj, Agron Shyti, and Angeletto 2nd Ave Inc. to plaintiff be resolved against defendant Skender Gashi, in accordance with the cross claims of defendants Astrit Brahaj, Agron Shyti, and Angeletto 2nd Avenue Inc., against defendant Gashi, and that defendant Gashi be directed to indemnify defendants Astrit Brahaj, Agron Shyti, and Angeletto 2nd Ave Inc. for any liability, including any damages awarded to plaintiff assessed against such defendants, and that all cross claims of defendant Skender Gashi against such defendants be

stricken, the motion, pursuant to CPLR § 3126, of defendants Astrit Brahaj, Agron Shyti, and Angeletto 2nd Ave Inc. for penalties for the failure of defendant Skender Gashi to produce discovery, as ordered (motion seq no 003) is granted, without opposition; and it is further

ORDERED that the motion, pursuant to CPLR 3212, of plaintiff for summary judgment as to damages (mot seq no 004) is denied; and it is further

ORDERED that, within thirty (30) days from entry of this order, plaintiff Bledar Noka shall serve a copy of this order with notice of entry and a note of issue and statement of readiness, upon counsel and shall file same with the Clerk of the General Clerk's Office and shall pay the fee therefor, and such Clerk shall cause the matter to be placed upon the Trial Assignment Part (TAP) 40 trial.

DECISION

There has been no opposition made to the motion of defendants Astrit Brahaj, Agron Shyti, and Angeletto 2nd Ave Inc. motion for penalties to be assessed against defendant Skender Gashi for his failure to disclose (mot seq no 003), and therefore, the court grants such sanctions to the moving defendants. As provided in CPLR § 3126(1), the issues to which the discovery is relevant are hereby deemed resolved for the purposes of the action in accordance with the claims/cross claims/defenses of defendants

Astrit Brahaj, Agron Shyti, and Angeletto 2nd Ave Inc. against defendant Skender Gashi, who failed to disclose.

With respect to the motion, pursuant to CPLR 3212, of plaintiff Blendar Noka that seeks summary judgment on damages against defendants, such motion must be denied as it constitutes a successive summary judgment motion.

“Parties will not be permitted to make successive fragmentary attacks upon a cause of action but must assert all available grounds when moving for summary judgment.”

Priester v Phanor, 228 AD3d 593, 594 (1st Dept 2024). See also Dembele v Action Carting Environmental Services, Inc., 211 AD3d 508 (1st Dept 2022). Although plaintiff cites to “newly discovered evidence” in the form of defendant Gashi’s response to interrogatories and notice to admit, wherein he admits that the \$16,714.289 cashier’s check was applied to his outstanding capital investment in the restaurant, the issue of the validity of the Shareholder’s Agreement remains. It is true that, as discussed above, such issue has been resolved in favor of cross claimants/defendants Astrit Brahaj, Agron Shyti, and Angeletto 2nd Ave Inc. against defendant Skender Gashi, pursuant to CPLR §

3126. However, as such resolution, made after plaintiff's successive motion for summary judgment, involves liability only on the cross claims amongst the co-defendants, plaintiff must prove the amount of damages that defendants owe on his complaint before a fact finder at trial.

Debra A. James

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9/26/2025

DATE

DEBRA A. JAMES, J.S.C.

CHECK ONE:

CASE DISPOSED

GRANTED

DENIED

SETTLE ORDER

INCLUDES TRANSFER/REASSIGN

NON-FINAL DISPOSITION

GRANTED IN PART

SUBMIT ORDER

FIDUCIARY APPOINTMENT

OTHER

REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: