

Chanos v Tarter, Krinsky & Drogin LLP

2025 NY Slip Op 33729(U)

September 15, 2025

Supreme Court, New York County

Docket Number: Index No. 151797/2022

Judge: Lynn R. Kotler

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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. LYNN R. KOTLER PART 08

Justice

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INDEX NO. 151797/2022

AMY CHANOS,

MOTION DATE 04/29/2025

Plaintiff,

MOTION SEQ. NO. 001

- v -

TARTER, KRINSKY & DROGIN LLP, MICHAEL
GRUDBERG, BALLARD SPAHR LLP

**DECISION + ORDER ON
MOTION**

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48

were read on this motion to/for DISCOVERY.

Upon the foregoing documents, this motion is decided as follows. Plaintiff Amy Chanos (“Chanos”) moves to compel an additional deposition of defendant Tarter, Krinsky & Drogin LLP (“Tarter”). Tarter, Michael Grudberg, Esq. (“Grudberg”) and Ballard Spahr LLP (“Ballard”) (collectively, “Defendants”) oppose. For the reasons that follow, the motion is denied

Background

This is an action for attorney malpractice based upon the failure of Michael Grudberg to serve a complaint in an action filed against Chanos’ ex-husband in a New York County action with Index Number #151678/2014 (the “Related Action”). On February 26, 2014, Grudberg, at the time employed by Ballard, filed a Summons with Notice for the Related Action. On March 20, 2014, Chanos’ ex husband filed a Notice of Appearance and Demand for Complaint. The time to serve was extended by stipulation to May 21, 2014, however, no complaint was served by that date.

In 2017, Grudberg left Ballard and joined Tarter, and Tarter began representing Chanos.

In June of 2021, Chanos' new counsel realized that no complaint had ever been filed and filed a complaint in the Related Action. On December 3, 2021, the Related Action was dismissed without prejudice for failure to serve a timely complaint.

On March 20, 2024, Grudberg was deposed in the instant action as an individual and on behalf of Tarter. Chanos contends she sought information at the deposition relating to the firm's practice with respect to management and supervision of their litigators and cases. Chanos argues that at Grudberg's deposition he "made clear that he lacked the knowledge regarding the firm's essential procedures and policies, including his inability to describe the firm's statute of limitations monitoring system, new client intake protocols, and case transition and supervisory procedures."

Discussion

As a threshold matter, Defendants' argument that the motion is untimely is unavailing. The Note of Issue has not yet been filed, and discovery therefore is not yet complete.

When making a motion to take additional depositions, the moving party must make "a 'detailed showing' of the necessity for taking additional depositions, in that [they] demonstrated that the employees already deposed had insufficient information and there was a substantial likelihood that those sought to be deposed possess information necessary and material to the prosecution of the case" (*Alexopoulos v Metropolitan Transp. Auth.*, 37 AD3d 232, 233 [1st Dept 2007]).

Chanos argues that she has met her burden of showing that a further deposition of Tarter is warranted, as Grudberg did not have the requisite knowledge to answer questions related to Tarter's internal monitoring systems. Defendants argue that Chanos failed to ask questions at the

deposition related to this information, and that the information is not material and necessary to the legal malpractice claim.

Here, Chanos has failed to make a showing that Grudberg had insufficient information regarding the information sought. While Chanos claims that Grudberg had no knowledge of the information sought, she failed to reference a single line in the deposition where Grudberg was asked information related to any systems in place at Tarter. Because Chanos has failed to show that Grudberg had insufficient information based on the questions posed at his deposition, the motion is denied.

Chanos also argues that the deposition is necessary to rebut Defendants new defense raised after the deposition of Grudberg that there was no malpractice because the action could have been salvaged through refileing as an action on judgment. Defendants argue that this argument was raised as an affirmative defense in their answer. The Court agrees with Defendants that Chanos was on notice, based on the affirmative defenses raised, that Defendants would defend the case in part based on Chanos and her current counsel's failure to pursue timely legal claims, and failed to ask Grudberg any questions related to the systems in place at the March 20, 2024 deposition.

Based on the foregoing, the motion is denied.

Conclusion

Accordingly, it is hereby

ORDERED that Amy Chanos' motion to compel a further deposition of Tarter, Krinsky & Drogin LLP is denied; and it is further

ORDERED that plaintiff's time to file the note of issue us hereby extended to October 31, 2025.

Any requested relief not expressly addressed herein has nonetheless been considered and is hereby denied and this constitutes the decision and order of the court.

9/15/2025
DATE


LYNN R. KOTLER, J.S.C.

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