

PF2 Sec. Evaluations, Inc. v Fillebeen

2025 NY Slip Op 34653(U)

December 3, 2025

Supreme Court, New York County

Docket Number: Index No. 151776/2014

Judge: Arlene P. Bluth

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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. ARLENE P. BLUTH PART 14

Justice

-----X

PF2 SECURITIES EVALUATIONS, INC.,

Plaintiff,

- v -

GUILLAUME FILLEBEEN, LEVEL 3 CONSULTANTS, LLC,

Defendants.

-----X

INDEX NO. 151776/2014
MOTION DATE N/A
MOTION SEQ. NO. 018

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 018) 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895

were read on this motion to/for SANCTIONS

Plaintiff's motion to impose sanctions on defendant Fillebeen, dismiss certain counterclaims and to strike defendants' pleadings is denied.

Background

In this endless odyssey of a case, plaintiff contends that defendant Fillebeen misappropriated plaintiff's computer algorithms related to financial structures and then used that intellectual property to create a competing business. Plaintiff contends it evaluates collateralized debt obligations ("CDOs") using mathematical models. It alleges that its clients, such as law firms, then hire plaintiff often in the context of litigation as expert witnesses. Plaintiff says that defendant Fillebeen worked for plaintiff from 2008 through 2013 and therefore had access to plaintiff's trade secret models and client information. It claims that Fillebeen and plaintiff entered into a buyout in November 2012 but that plaintiff soon discovered that Fillebeen was

allegedly competing with plaintiff by using plaintiff's mathematical models as part of his own business.

Defendant Fillebeen contends that he was duped into selling his shares of the company at a fraction of their true value and continued working for the company as a consultant for a few months prior to ending his relationship with plaintiff. He insists that he was the only employee of plaintiff who had any training in programming computer models and that he was the person who created the subject programs at issue here.

In this motion, plaintiff seeks sanctions based on defendant Fillebeen's purported misconduct. Essentially, plaintiff alleges that Fillebeen has hid key discovery including the basis for his assertion that he was duped into selling his shares in plaintiff for unfair value. It argues that Fillebeen has never provided his valuation of plaintiff in connection with this supposedly unfair sale. Plaintiff makes numerous assertions about defendant Fillebeen's misconduct throughout discovery and emphasizes that he has certified that discovery was complete several times only to turn over documents after that certification.

In opposition, defendants point out that a previous discovery dispute was sent to a referee, who already found that sanctions were not warranted. They observe that plaintiff previously moved, unsuccessfully, for sanctions in 2016 and 2021. Defendants argue that all of the key actions that form the basis for plaintiff's motion all took place on or before September 16, 2024 and that the referee issued the aforementioned decision in November 2024.

Plaintiff argues in reply that it did not have the chance to raise some of these issues before the referee as that dispute concerned matters from years earlier. It concludes that defendants have misled the Court for eight years and the Court should impose severe sanctions.

Discussion

The Court denies the motion. Although this matter was only transferred to the undersigned less than a year ago, it is readily apparent that there is little interest by any party in actually moving this case toward a resolution on the merits. Instead, the parties are hyper-focused on litigating by motion. The instant motion, the eighteenth (!), is just the most recent example. As defendants point out, this is at least the third time plaintiff has moved for sanctions.

In the referee's 44-page report dated November 12, 2024 (which was the subject of motion sequence numbers 015, 016 and 017), he observed that both sides had moved for sanctions and "recommended that both sides' requests for sanctions be denied" (NYSCEF Doc. No. 653). The Court finds that plaintiff's motion is largely an attempt to rehash prior unsuccessful requests for sanctions as many of the purported actions taken by defendants took place prior to the previous motions for sanctions. For that reason, the motion is denied. To be sure, as with everything in this case, it took a while for the dispute before the referee to be resolved and so some of the alleged misdeeds happened after it was fully briefed. But the Court declines to award sanctions based on the more recent events as they do not rise to the level of sanctionable conduct meriting the drastic remedy of striking of *inter alia* defendants' counterclaims and answer.

Summary

In this Court's decision affirming the referee's report dated March 26, 2025, the Court stressed that the parties should fully comply with the directives of the referee's report, including the production of documents and *Jackson* affidavits, where appropriate, by April 30, 2025 (NYSCEF Doc. No. 762). And yet, more than seven months later, the parties are still fighting about paper discovery and alleged deficiencies in *Jackson* affidavits. In other words, the parties

have made little progress despite the Court's clear directive. In fact, as the motion papers observe, depositions have not yet taken place. Moreover, it seems that plaintiff has, on a few occasions, demanded that defendants be precluded from taking its deposition (*see* NYSCEF Doc. No. 277). That same Court order required depositions to be held within 90 days of June 25, 2020 (*id.*).

After more than 11 years, 18 motions, countless court orders containing discovery deadlines, and a referee's fabulous and comprehensive decision which was confirmed by this Court, there still have been no depositions. That does not evince a litigation designed to resolve a dispute on the merits; rather, it seems to be a litigation of attrition. And so, to the parents out there: "I'm pulling this car over."

This Court must now impose a stringent schedule to complete discovery.

Depositions shall proceed as follows: The depositions of plaintiff's witnesses shall take place on or before January 15, 2026. The depositions of defendants' witnesses shall take place on or before January 30, 2026. The note of issue shall be filed by February 19, 2026.

The failure to take depositions will result in the imposition of proper penalties depending on which party is at fault (i.e., if a witness fails to show up without a valid excuse [death, proven hospitalization, etc.], then pleadings may be stricken or an adverse inference imposed).

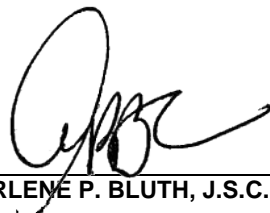
The decision to impose the above schedule makes no findings about which party is to blame for the delay in this case. Rather, it sets firm deadlines so that this acrimonious dispute can be resolved on the merits prior to it reaching the two-decade mark. Clearly, holding countless conferences, signing discovery orders and even having a thoughtful referee's ruling has had little effect.

Accordingly, it is hereby

ORDERED that plaintiff's motion for sanctions is denied; and it is further

ORDERED that depositions of plaintiff shall take place by January 15, 2026, depositions of defendants shall take place by January 30, 2026 and a note of issue shall be filed by February 19, 2026.

There is no need for any more discovery conferences.



12/3/2025
DATE

ARLENE P. BLUTH, J.S.C.

CHECK ONE:	<input type="checkbox"/> CASE DISPOSED	<input checked="" type="checkbox"/> DENIED	<input checked="" type="checkbox"/> NON-FINAL DISPOSITION	
	<input type="checkbox"/> GRANTED		<input type="checkbox"/> GRANTED IN PART	<input type="checkbox"/> OTHER
APPLICATION:	<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"/> REFERENCE