

**Seward Park Liqs., Inc. v LES Wine & Spirits, Inc.**

2025 NY Slip Op 34945(U)

December 16, 2025

Supreme Court, New York County

Docket Number: Index No. 654797/2025

Judge: Emily Morales-Minerva

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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: PART 42M

-----X  
SEWARD PARK LIQUORS, INC.,

Plaintiff,

- v -

LES WINE AND SPIRITS, INC., GAVINSKY  
CONSEILLANT, THE NEW YORK STATE LIQUOR  
AUTHORITY

Defendants.

INDEX NO. 654797/2025

MOTION DATE 12/16/2025

MOTION SEQ. NO. 002

**DECISION + ORDER ON  
MOTION**

-----X  
The following e-filed documents, listed by NYSCEF document number (Motion 002) 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 67, 69, 70, 71, 75, 76

were read on this motion to/for INJUNCTION/RESTRAINING ORDER

APPEARANCES:

Hertz Cherson and Rosenthal, P.C., New York, New York  
(Howard Scott Levine, Esq., of counsel) for plaintiff.

Law Offices of Steven Cohen, Bronx, New York (Jaazaniah  
Asahguii, Esq., of counsel) for defendants.

HON. EMILY MORALES-MINERVA:

In this action, plaintiff SEWARD PARK LIQUORS, INC. moves, by order to show cause (motion sequence number 02), pursuant to CPLR § 6301, for a preliminary injunction enjoining defendants LES WINE AND SPIRITS INC. and GAVINSKY CONSEILLANT<sup>1</sup> from selling, removing, transferring, hypothecating or encumbering the security collateral, which consists of the entire alcoholic

<sup>1</sup> Plaintiff discontinued this action against defendant NEW YORK STATE LIQUOR AUTHORITY (see NYSCEF Doc. No. 19, notice of discontinuance, dated August 26, 2025).

beverage inventory (collateral) located at Les Wine and Spirits, Inc. (see New York State Courts Electronic Filing System [NYSCEF] Doc. No. 39, order to show cause, dated September 03, 2025; see also NYSCEF Doc. No. 38, plaintiff's memorandum of law in support). Pending the hearing on the order to show cause, the court granted plaintiff a temporary restraining order "pursuant to the parties' alleged security agreement, dated October 05, 2023, paragraph 7 (a)", enjoining defendants from, among other things, selling the collateral (see NYSCEF Doc. No. 39, order to show cause, p 2).

Defendants oppose the entirety of the relief requested in the order to show cause (see NYSCEF Doc. No. 71, defendants' memorandum of law in opposition).

The order to show cause (motion seq. no. 02) was returnable in Part 42M, 111 Centre Street, New York, New York, today, December 16, 2025, at 11:00 AM. At the call of the calendar, plaintiff appeared, by counsel, and defendants appeared with counsel.

Now, for the reasons set forth below, plaintiff's motion, by order to show cause (seq. no. 02), for a preliminary injunction is denied, and the temporary restraining order, dated September 03, 2025, is vacated.

CPLR § 6301 provides:

"A preliminary injunction may be granted in any action where it appears that the defendant threatens or is about to do, or is doing or procuring or suffering to be done, an act in violation of the plaintiff's rights respecting the subject of the action, and tending to render the judgment ineffectual, or in any action where the plaintiff has demanded and would be entitled to a judgment restraining the defendant from the commission or continuance of an act, which, if committed or continued during the pendency of the action, would produce injury to the plaintiff."

"The party seeking a preliminary injunction must demonstrate a probability of success on the merits, danger of irreparable injury in the absence of an injunction and a balance of equities in its favor" (Nobu Next Door, LLC v Fine Arts Hous., Inc., 4 NY3d 839, 840 [2005] [emphasis added]; see also DKC Group Holdings, LLC v Reece, Inc., 236 AD3d 537, 537 [1st Dept 2025]; BDC Mgt. Servs., LLC v Singer, 144 AD3d 597, 597 [1st Dept 2016]). The moving party must demonstrate such by "clear and convincing evidence" (Uber Tech., Inc. v Am. Arbitration Assn., Inc., 204 AD3d 506, 508 [1st Dept 2022]).

Here, there is no irreparable harm because plaintiff can be compensated by money damages (see Definitions Private Training Gyms, Inc. v Lutke, 200 AD3d 602, 603 [1st Dept 2021] [holding that "plaintiff cannot show irreparable harm, since it can be adequately compensated by money damages"])). The value of the

collateral -- the entire alcoholic beverage inventory -- can be quantified into money damages (see Kingsbridge 2005, LLC v Wells Fargo Bank, 226 AD3d 620, 620 [1st Dept 2024] [holding that "the availability of quantifiable money damages precludes a finding of irreparable harm"]); see also Kazantzis v Cascade Funding RM1 Acquisitions Grantor Tr., 217 AD3d 410, 411 [1st Dept 2023] [finding that "plaintiff has failed to show irreparable harm . . . given he does not have [] an otherwise unquantifiable interest therein"]; Credit Agricole Indosuez v Rossiyskiy Kredit Bank, 94 NY2d 541, 548 [2000] [holding that where a money judgment is "the true object of the action", an injunction should be denied]).

Further, contrary to plaintiff's assertions, the alcoholic beverage inventory located at Les Wine and Spirits, Inc. is not unique chattel (see generally CPLR § 7109 [governing preliminary injunctions in the context of unique chattel]; see also Vincent C. Alexander, Practice Commentaries, McKinney's Cons Laws of NY, CPLR C7109:2 ["Chattels that are sufficiently unique . . . include heirlooms, works of art, patents and inventions, particular shares of stock with peculiar investment features and similar items"] [internal citations and quotations removed]). Therefore, plaintiff is precluded from obtaining a preliminary injunction herein.

Accordingly, it is hereby

ORDERED that the plaintiff's motion, by order to show cause (seq. no. 02), is denied; it is further

ORDERED that the temporary restraining order issued by this court on September 03, 2025, is vacated; it is further

ORDERED that that plaintiff shall, within 15 days from the date of this order, serve a copy of this order, with notice of entry, upon defendants; it is further

ORDERED that plaintiff shall, within 15 days from the date of this order, serve a copy of this order upon the County Clerk and the Clerk of the General Clerk's Office, who are directed to amend the caption to the following:

SEWARD PARK LIQUORS, INC.

Plaintiff,

-v-

LES WINE AND SPIRITS INC. and GAVINSKY CONSEILLANT,

Defendants.

it is further

ORDERED that such service upon the County Clerk and the Clerk of the General Clerk's office shall be made in accordance with the procedures set forth in the *Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases* (accessible at the "E-Filing" page on the court's website); it is further

ORDERED that the parties shall appear before this Court for a settlement conference in Part 42M, Courtroom 574, on February 11, 2026 at 11:00 A.M.; and it is further

ORDERED that the Clerk of the Court shall mark the file accordingly.

12/16/2025  
DATE

*Emily Morales-Minerva*  
EMILY MORALES-MINERVA, 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