

Kangasmaki v St. Surin
2025 NY Slip Op 35236(U)
December 10, 2025
Supreme Court, Kings County
Docket Number: Index No. 526667/2021
Judge: Francois A. Rivera
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At an IAS Term, Part 52 of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse, at Civic Center, Brooklyn, New York, on the 10th day of December 2025

HONORABLE FRANCOIS A. RIVERA

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SINI KANGASMAKI,

Plaintiff,

-against-

BRHONSON LEXIER ST. SURIN
D/B/A/ S. LEXICON PRODUCTIONS
D/B/A/ QUANTUM MEDIA
PRODUCTIONS, INC.
D/B/A SCARLET LEXICON
D/B/A LEX
D/B/A/ Q MEDIA GROUP NETWORK

Defendant

-----X

Recitation in accordance with CPLR 2219 (a) of the papers considered on the notice of motion filed on July 23, 2025, under motion sequence number six, by Brhonso Lexier St. Surin (hereinafter the defendant) for an order pursuant to:

- (i) CPLR 3126 [penalties for refusal to comply with order or to disclose], striking out parts of the Second Amended Complaint (“SAC”) in accordance with CPLR 3024 (b);
- (ii) CPLR 3024 [motion to correct pleadings], striking any scandalous or prejudicial matter unnecessarily inserted in the SAC (see NYSCEF Doc. No. 18);
- (iii) CPLR 2218 [trial of issue raised on motion], granting a hearing to determine whether certain portions of plaintiff’s pleading should be stricken based upon the commission of fraud on the court, and to further determine if plaintiff and her attorney(s) are subject to costs and sanctions;
- (iv) CPLR 2004 [extension of time], extending the dates within the operative scheduling order (see NYSCEF Doc. No. 61) so as to accommodate the

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Cal. No.: 30

Ms. Seq. No.: 6

aforementioned requests for relief; and (v) granting defendant such other and further relief as this Court may deem just and proper.

The motion is opposed¹.

- Notice of motion
- Affirmation in support
 - Affirmation in opposition
 - Exhibits A-B
- Affirmation in further support
 - Exhibits 1-7

BACKGROUND

On October 18, 2021, the plaintiff commenced the instant action by filing a summons and complaint with the Kings County Clerk's office (KCCO). On July 18, 2022, the plaintiff filed an amended complaint with the Kings County Clerk's office. On August 19, 2022, plaintiff filed a second amended complaint with the KCCO.

On January 23, 2024, the defendant filed an answer to the second amended complaint.

LAW AND APPLICATION

Defendant's Motion Pursuant to CPLR 3126

The defendant seeks an order pursuant to CPLR 3126 striking certain parts of the plaintiff's second amended complaint based on alleged discovery violations.

CPLR 3126 addresses the penalties for refusal to comply with an order or to disclose as follows:

If any party, or a person who at the time a deposition is taken or an examination or inspection is made is an officer, director, member, employee or agent of a party or otherwise under a party's control, refuses to obey an order for disclosure or willfully fails to disclose information which the court

¹ The plaintiff filed a cross-motion under motion sequence number seven seeking an order pursuant to CPLR 3124 compelling the defendant to respond to the plaintiff's discovery demands. The cross-motion also served as opposition to the defendant's instant motion. Due to the plaintiff's failure to appear for oral argument on December 4, 2025, the plaintiff's cross motion was denied and the portion of the cross motion which was to serve as opposition to the defendant's motion is disregarded.

finds ought to have been disclosed pursuant to this article, the court may make such orders with regard to the failure or refusal as are just, among them:

- (1) an order that issues to which the information is relevant shall be deemed resolved for the purposes of the action in accordance with the claims of the party obtaining the order; or
- (2) an order prohibiting the disobedient party from supporting or opposing designated claims or defenses, from producing in evidence designated things or items of testimony, or from introducing any evidence of the physical, mental or blood condition sought to be determined, or from using certain witnesses; or
- (3) an order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the action or any part thereof, or rendering a judgment by default against the disobedient party.

“The nature and degree of a penalty to be imposed under CPLR 3126 for discovery violations is addressed to the court's discretion” (*see Chowdhury v Hudson Val. Limousine Serv., LLC*, 162 AD3d 845, 846 [2d Dept 2018]). Before a court imposes a sanction, “there must be a clear showing that the failure to comply with court-ordered discovery was willful and contumacious” (*Crupi v Rashid*, 157 AD3d 858, 859 [2d Dept 2018]).

Here, the defendant failed to establish that he was entitled to sanctions due to the plaintiff's alleged failure to properly and fully respond to his discovery requests, because the defendant failed to substantively comply with the requirements of 22 NYCRR 202.20-f. Although the defendant attested to e-mail communications with plaintiff's counsel, he failed to attest that he conducted an in-person or telephonic conference to resolve the disputed discovery in compliance with 22 NYCRR 202.20-f (b) (*see*

Steinberg v Bais Yaakov Council, 237 AD3d 1131, 1132 [2d Dept 2025]). Accordingly, this branch of the defendant's motion is denied.

Moreover, a request to strike certain text from a pleading as prejudicial or irrelevant is not an appropriate sanction pursuant to CPLR 3216.

Defendant's Motion Pursuant to CPLR 3024

The defendant seeks an order striking certain text and words from the second amended complaint as unnecessarily scandalous or prejudicial. The designated text and words contained within the allegations of fact in the pleading "are relevant to the cause of action" asserted against the defendant (*Irving v Four Seasons Nursing and Rehabilitation Center*, 121 AD3d 1046, 1048 [2d Dept 2014]). Also, the designated text and words are not unnecessarily scandalous or prejudicial. This branch of the motion is therefore denied.

Defendant's Motion Pursuant to CPLR 2218

CPLR 2218 provides in pertinent part as follows:

The court may order that an issue of fact raised on a motion shall be separately tried by the court or a referee. If the issue is triable of right by jury, the court shall give the parties an opportunity to demand a jury trial of such issue. Failure to make such demand within the time limited by the court, or, if no such time is limited, before trial begins, shall be deemed a waiver of the right to trial by jury. An order under this rule shall specify the issue to be tried.

There is no branch of the instant motion or any other pending motion which requires a hearing to resolve a disputed and pertinent issue of fact. The defendant seeks a hearing pursuant to CPLR 2218 purportedly to investigate and determine if the plaintiff

and plaintiff's attorney are subject to costs and sanctions for improper or unethical conduct.

There is no statute, court rule, or case law which would compel or persuade the Court to conduct the evidentiary hearing requested by the movant. The sole purpose of such a hearing would be to explore whether the plaintiff and plaintiff's counsel may have done something unethical or improper. "It is well-established that a judge 'is under no ethical obligation to investigate whether allegations of misconduct are true' and thus may discharge their disciplinary responsibilities, if any, 'based on those facts already known to the judge without further inquiry'" (Advisory Comm on Jud Ethics Op 23-239 [2024]). Particularly so when the requested evidentiary hearing has no specific relevance to the underlying issues in the instant action. The Court declines the invitation to do so (*see American Transit Insurance Company v Preferred Medical, P.C.*, No. 526577/2021, 83 Misc.3d 1254(A), 214 N.Y.S.3d 674, 2024 N.Y. Slip Op. 50966(U), 2024 WL 3561576, at *3 (Sup Ct, July 23, 2024).

Defendant's Motion Pursuant to CPLR 2004

The defendant seeks an order pursuant to CPLR 2004 granting an extension of time to comply with the plaintiff's discovery demands. In support of this branch of the motion the defendant made the following argument.

"Given the possibility that plaintiff may have to amend her operative complaint, among other things, defendant is respectfully requesting additional time to respond to plaintiff's discovery demands and interrogatories. Moreover, defendant would like to

have additional time to file an amended bill of particulars so as to amplify the remaining allegations within the operative complaint, and to file an additional production demand once the allegations in the complaint are no longer vague and ambiguous.”

This branch of the motion is unsupported by the defendant’s evidentiary submission and is based on the defendant’s conclusory speculation. It is therefore denied.

CONCLUSION

The branch of the motion by defendant Brhonson Lexier St. Surin for an order pursuant to CPLR 3126 is denied.

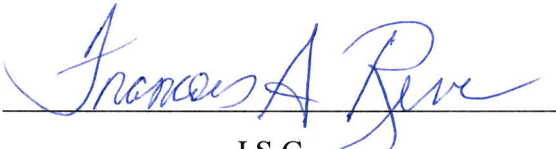
The branch of the motion by defendant Brhonson Lexier St. Surin for an order pursuant to CPLR 3024 to strike any scandalous or prejudicial matter is denied.

The branch of the motion by defendant Brhonson Lexier St. Surin for an order pursuant to CPLR 2218 granting a hearing is denied.

The branch of the motion by defendant Brhonson Lexier St. Surin for an order pursuant to CPLR 2004 extending the time to comply with the plaintiff’s discovery demands is denied.

The foregoing constitutes the decision and order of this Court.

ENTER:



Handwritten signature of Francois A. Rivera in blue ink, written over a horizontal line.

J.S.C.

HON. FRANCOIS A. RIVERA