

**Soltanian v New York State Dept. of Fin. Servs.**

2026 NY Slip Op 30211(U)

January 13, 2026

Supreme Court, New York County

Docket Number: Index No. 451393/2025

Judge: Alexander M. Tisch

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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. ALEXANDER M. TISCH PART 18

Justice

ALEXANDER SOLTANIAN, Petitioner, - v - NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES, Respondents. INDEX NO. 451393/2025 MOTION DATE 04/21/2025, 07/16/2025, 07/25/2025 MOTION SEQ. NO. 001 003 004

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 001) 2, 11, 13, 15, 17, 19, 20, 21, 22, 23, 24

were read on this motion to/for JUDGMENT - DECLARATORY

The following e-filed documents, listed by NYSCEF document number (Motion 003) 32, 33, 34, 35, 36, 37, 38

were read on this motion to/for DISMISSAL

The following e-filed documents, listed by NYSCEF document number (Motion 004) 39, 40, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53

were read on this motion to/for AMEND CAPTION/PLEADINGS

According to the amended verified petition in this proceeding (NYSCEF Doc. No. 12), petitioner Alexander Soltanian, a licensed insurance broker, seeks relief from a stipulation into which he entered in 2021. He explains that he had depression in 2021, after being evicted from the family insurance practice office. His mother, fearing he might harm himself, called the police, then changed her mind and urged petitioner to abscond. Petitioner was arrested at the airport and detained. New York Insurance Law obligated him to report his arrest to respondent Department of Financial Service (DFS), the licensing entity for insurance brokers. Petitioner did not notify DFS. DFS began an investigation. Eventually, petitioner and DFS agreed to a

stipulation to resolve the matter between them (NYSCEF Doc. No. 5). Petitioner claims he did not understand the terms of the stipulation, which he alleges has prevented him from getting licensed in other jurisdictions and affected his reputation.

Respondent cross-moved to dismiss the petition original petition, but the Court granted leave for petitioner to amend the petition (NYSCEF Doc. No. 31, Motion Seq. No. 002), making the original petition and the cross-motion (Motion Sequence No. 001) moot.

In Motion Sequence Number 003, respondent moves to dismiss the amended verified petition.

In Motion Sequence Number 004, petitioner moves to seal the docket of this proceeding pursuant to NYCRR 216.1 and to serve and file another amended petition.

The Court will first consider petitioner's motion to file another amended petition (Motion Seq. No. 004). Petitioner provides a proposed second amended verified complaint (NYSCEF Doc. No. 41). Petitioner does not provide a description of the proposed changes or a blackline version of the new document to highlight the proposed changes. Petitioner still seeks the annulment of his prior stipulation with respondent pursuant to CPLR Article 78 and asks the Court to find the stipulation void due to fraud, duress, and lack of due process.

Leave to amend a pleading pursuant to CPLR § 3025 "shall be freely given," in the absence of prejudice or surprise (*see e.g. Thompson v Cooper*, 24 AD3d 203, 205 [1st Dept 2005]; *Zaid Theatre Corp. v Sona Realty Co.*, 18 AD3d 352, 354 [1st Dept 2005]). Mere lateness in seeking such relief is not in itself a barrier to obtaining judicial leave to amend (*see Ciarelli v Lynch*, 46 AD3d 1039 [3d Dept 2007]). Rather, when unexcused lateness is coupled with significant prejudice to the other side, denial of the motion for leave to amend is justified (*see Edenwald Contracting Co. v City of New York*, 60 NY2d 957, 958 [1983]). Prejudice in this

context is shown where the nonmoving party is “hindered in the preparation of his case or has been prevented from taking some measure in support of his position” (*Loomis v Civetta Corinno Const. Co.*, 54 NY2d 18, 23 [1981]).

In order to conserve judicial resources, examination of the underlying merit of the proposed amendment is mandated (*Thompson, supra*, 24 AD3d at 205; *Zaid, supra*, 18 AD3d at 355). Leave will be denied where the proposed pleading fails to state a cause of action or is palpably insufficient as a matter of law (*see Aerolineas Galapagos, S.A. v Sundowner Alexandria*, 74 AD3d 652 [1st Dept 2010]; *Thompson, supra*, 24 AD3d at 205). As the party seeking the amendment, petitioner has the burden in the first instance to demonstrate the proposed petitions’ merits, but respondent, as the party opposing the motion, “must overcome a presumption of validity in the moving party’s favor, and demonstrate that the facts alleged in the moving papers are obviously unreliable or insufficient to support the amendment” (*Peach Parking Corp. v 346 W. 40th St. LLC*, 42 AD3d 82, 86 [1st Dept 2007]). Where there has been extended delay in seeking leave to amend, the party seeking to amend a pleading must establish a reasonable excuse for the delay (*see Heller v Louis Provenzano, Inc.*, 303 AD2d 20, 24 [1st Dept 2003]).

As far as petitioner claims the Stipulation should be void as the subject of misrepresentation by the respondent upon which petitioner reasonably relied, that argument fails. Petitioner claims respondent told him that entering into the stipulation would not affect his license or professional standing. “In a fraudulent inducement claim, the alleged misrepresentation should be one of then-present fact, which would be extraneous to the contract and involve a duty separate from or in addition to that imposed by the contract . . . and not merely a misrepresented intent to perform” (*Hawthorne Group v RRE Ventures*, 7 AD3d 320,

323-24 [1st Dept 2004] [citations omitted]; *see also J.M. Bldrs. & Assoc., Inc. v Lindner*, 67 AD3d 738, 741 [2d Dept 2007] [“[a] present intent to deceive must be alleged and a mere misrepresentation of an intention to perform under the contract is insufficient to allege fraud”]). Representations of opinion, even as to matters of fact, are not representations and are not actionable unless guaranteed (*see Lanzi v Brooks*, 54 AD2d 1057 [1976], *affd* 43 NY2d 778 [1977]; *Mun. Metallic Bed Mfg. Corp. v Dobbs*, 253 NY 313 [1930]).

In the proposed second amended complaint, the misrepresentations alleged by petitioner about the impact of the settlement on petitioner’s reputation and opportunities for licensure in other jurisdictions are not misrepresentations of then-present fact, involving a duty separate from the contract. Further, petitioner had ample opportunity to obtain knowledge of the licensing requirements of other jurisdictions and the implications of entering into the settlement, which precludes a claim of reasonable reliance on respondent’s alleged misrepresentations (*see Siemens Solar Indus. v Atl. Richfield Co.*, 251 AD2d 82, 82 [1st Dept 1998]). The Court has considered the other claims raised by the proposed second amended complaint and finds them without merit. Accordingly, petitioner’s motion to amend the complaint will be denied.

As far as petitioner seeks to seal the docket, 22 NYCRR 216.1(a) provides:

“[e]xcept where otherwise provided by statute or rule, a court shall not enter an order in any action or proceeding sealing the court records, whether in whole or in part, except upon a written finding of good cause, which shall specify the ground thereof. In determining whether good cause has been shown, the court shall consider the interests of the public as well as the parties.”

In *Mosallam v Berenson* (76 AD3d 345, 349 [1st Dept 2010]), the court summarizes the governing legal principles as follows:

“Although the term ‘good cause’ is not defined, ‘a sealing order should clearly be predicated upon a sound basis or legitimate need to take judicial action’ (*Gryphon*

*Dom. VI, LLC*, 28 AD3d at 325). ‘A finding of ‘good cause’ presupposes that public access to the documents at issue will likely result in harm to a compelling interest of the movant’ (*Mancheski*, 39 AD3d at 502). ‘Confidentiality is clearly the exception, not the rule’ (*Matter of Hofmann*, 284 AD2d 92, 93-94 [2001]), and the party seeking to seal court records has the burden to demonstrate compelling circumstances to justify restricting public access (*see Mancheski*, 39 AD3d at 502; *Danco Labs.*, 274 AD2d at 8).”

Sealing may be appropriate to preserve the confidentiality of materials which involve the internal finances of a party and are of more minimal public interest (*see D’Amocir v Ohrenstein & Brown, LLP*, 17 Misc 3d 1130[A], 2007 WL 4126386 at 42 [NY Sup Ct, NY County 2007]). An order sealing court documents on grounds of privacy is often appropriate where records to be sealed concern the identities, residents, or religious affiliation of non-parties (*see. e.g., Weinstein v Barnett*, NYLJ, Mar. 24, 1995, at 30, col 1 [Sup Ct, NY County 1995]). However, petitioner has not shown good cause to treat the documents in this proceeding as confidential, and this portion of the motion will also be denied.

Next the Court considers Motion Sequence Number 003, in which respondent seeks to dismiss the current amended petition (NYSCEF Doc. No. 12) for failure to state a cause of action (CPLR 3211[a][7]). The amended petition seeks to annul the stipulation as arbitrary, capricious, and in violation of law pursuant to CPLR 7803(3); the subject of petitioner’s unilateral mistake that he would have faced civil and criminal penalties if he had not signed off; and on the ground respondent violated procedural due process by failing to tell petitioner the likelihood of success or failure of the underlying proceeding against petitioner.

FSL§ 305(5)(B), the statute relied on by the petitioner, does not apply to the facts here. That statute provides the conditions and procedures for holding a hearing. No

hearing was held for petitioner, as he settled the dispute with the stipulation. Similarly, petitioner's claim that respondent's conduct or determination was arbitrary and capricious or an abuse of discretion, based on error of law, unsupported by law, or in breach of due process rights, that argument fails. There was no determination by the respondent, as the parties stipulated. Petitioner does not deny the truth of the statements in the stipulation.

As far as petitioner seeks to vacate the stipulation, "stipulations of settlement are judicially favored and may not be lightly set aside" (*IDT Corp. v Tyco Group*, 13 NY3d 209, 213 [2009] quoting *Matter of Kanter*, 209 AD2d 365, 365 [1st Dept 1994]).

Petitioner's argument that the stipulation should be vacated because of unilateral mistake and unconscionability fails because a unilateral mistake alone is insufficient to grant relief (*Angel v Bank of Tokyo-Mitsubishi, Ltd.*, 39 AD3d 368, 369 [1st Dept 2007]; but see *Cox v Lehman Bros., Inc.*, 15 AD3d 239, 239 [1st Dept 2005] [unilateral mistake resulting in unjust enrichment provides basis for rescission]). Petitioner's argument that the stipulation should be vacated as a violation of his procedural due process because respondent failed to tell him the likelihood of success of the underlying proceeding also fails. The settlement agreement was not procedurally unconscionable, nor is the agreement stuck outrageous (see *Sultan v Connery*, 199 AD3d 596 [1st Dept 2021]).

The Court has considered petitioner's other arguments and found them without merit.

Accordingly, the petition (Motion Sequence Number 001) is hereby DENIED as moot; and it is further

ORDERED that respondent's motion to dismiss the amended verified petition (Motion Sequence Number 003, is hereby GRANTED; and it is further

ORDERED that petitioner's motion to seal the docket of this proceeding pursuant to NYCRR 216.1 and to serve and file another amended petition (Motion Sequence Number 004) is hereby DENIED and this proceeding shall be marked disposed.

This constitutes the decision and order of the Court.



1/13/2026  
DATE

ALEXANDER M. TISCH, J.S.C.

CHECK ONE:

- CASE DISPOSED
- GRANTED
- SETTLE ORDER
- INCLUDES TRANSFER/REASSIGN

DENIED

- NON-FINAL DISPOSITION
- GRANTED IN PART
- SUBMIT ORDER
- FIDUCIARY APPOINTMENT

OTHER

REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: