

**New York Spine & Sport Rehabilitation Medicine,
P.C. v Jafaar**

2026 NY Slip Op 30366(U)

January 29, 2026

Supreme Court, New York County

Docket Number: Index No. 653424/2022

Judge: Arlene P. Bluth

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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. ARLENE P. BLUTH PART 14

Justice

-----X

NEW YORK SPINE & SPORT REHABILITATION
MEDICINE, P.C.,

Plaintiff,

INDEX NO. 653424/2022

MOTION DATE 01/20/2026

MOTION SEQ. NO. 004 005

- v -

RANDA JAJAAR, a/k/a RANDA JAAFAR, M.D.,

Defendant.

**DECISION + ORDER ON
MOTION**

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The following e-filed documents, listed by NYSCEF document number (Motion 004) 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 106, 107, 113, 114, 115

were read on this motion to/for SUMMARY JUDGMENT.

The following e-filed documents, listed by NYSCEF document number (Motion 005) 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 109, 110, 111, 112, 117

were read on this motion to/for JUDGMENT - SUMMARY.

Motion Sequence Numbers 004 and 005 are consolidated for disposition. Defendant’s motion (MS004) for summary judgment dismissing this action is granted. Plaintiff’s motion (MS005) for partial summary judgment and to dismiss defendant’s counterclaims is granted as described below.

Background

This dispute concerns defendant’s work for plaintiff and plaintiff’s claim that defendant breached a restrictive covenant in her employment agreement. Defendant is a medical doctor who specializes in pain management and started working for plaintiff in 2016. The applicable

restrictive covenant prohibited defendant from engaging in the practice of pain management for three years within a 2-mile radius of any of plaintiff's offices.

Plaintiff alleges that since 2021 (when defendant left plaintiff), defendant has been operating a competing business located in Manhattan. It also contends that defendant solicited and took plaintiff's clients. Plaintiff argues that defendant set up an office right around the corner from plaintiff's Manhattan office immediately after she left working for plaintiff. It seeks to enforce a liquidated damages clause in the employment agreement.

Defendant contends that in 2016, while working at another practice in Manhattan, she left to start working at plaintiff's office in the Bronx. Defendant alleges that the owner of plaintiff then asked her to consider working at a Manhattan office for plaintiff that had no patients yet. She insists that she viewed this as a request to enter into a partnership and not subject to the employment agreement she signed to work in the Bronx.

Defendant contends that plaintiff asked her to pay rent, although she admits she only did so on one occasion. She also argues that plaintiff required her to pay half of her malpractice insurance even though plaintiff had been paying these premiums on her behalf while she was working in the Bronx. Defendant points out that she was sued, along with plaintiff, in 2023 and that plaintiff denied, in that lawsuit, that she was always an employee.

Defendant's contention is that her relationship with plaintiff was never conducted pursuant to the terms of the employment agreement upon which this lawsuit is based. She explains that her primary reason for leaving plaintiff was the loss of the Healthfirst Insurance contract, the largest plan in the practice that covered the majority of patients. After that loss, defendant says the practice deteriorated.

The Parties' Motions

Both parties move for summary judgment. Defendant contends that the liquidated damages is an unenforceable penalty and so the Court should dismiss the complaint on that basis. Plaintiff counters that the restrictive covenant and the liquidated damages provision is adequate and that defendant willingly signed an agreement containing these provisions.

First, the restrictive covenant states in relevant part that:

“you covenant and agree that upon the expiration of your term of employment hereunder or any extended term of this Agreement past its current expiration date, or upon the termination of your employment with the P.C. for any reason, you shall not, for a period of three (3) years thereafter, except with the written consent of the P.C., either directly or indirectly, within a two (2) mile radius of the location of each of the P.C s then-existing offices: (i) engage in the practice of pain management” (NYSCEF Doc. No. 82, ¶ 11[b]).

“The modern, prevailing common-law standard of reasonableness for employee agreements not to compete applies a three-pronged test. A restraint is reasonable only if it: (1) is *no greater* than is required for the protection of the *legitimate interest* of the employer, (2) does not impose undue hardship on the employee, and (3) is not injurious to the public. A violation of any prong renders the covenant invalid (*BDO Seidman v Hirshberg*, 93 NY2d 382, 388-89 [1999] [emphasis in original]). “New York has adopted this prevailing standard of reasonableness in determining the validity of employee agreements not to compete. In this context a restrictive covenant will only be subject to specific enforcement to the extent that it is reasonable in time and area, necessary to protect the employer's legitimate interests, not harmful to the general public and not unreasonably burdensome to the employee” (*id.* at 389).

“With agreements not to compete between professionals, however, we have given greater weight to the interests of the employer in restricting competition within a confined geographical area” (*id.*).

Here, the Court finds that the restrictive covenant is reasonable. It restricted defendant from working within a 2-mile radius of any of plaintiff's locations for three years. On this record, there is only a mention of a Bronx and a Manhattan location. In fact, in plaintiff's owners' affirmation in MS004 (NYSCEF Doc. No. 106, ¶ 18), he suggests that the financial district in Manhattan was outside the restricted zone. Because the restricted zone still permitted defendant to open up a practice in the same field—pain management—in Manhattan, the Court finds it to be reasonable. “Covenants restricting a professional, and in particular a physician, from competing with a former employer or associate are common and generally acceptable” (*N. Shore Hematology/Oncology v Zervos*, 278 AD2d 210, 211, 717 NYS2d 250 [2d Dept 2000]).

It is clear from defendant's deposition testimony that she violated this restrictive covenant. At her deposition, defendant admitted that she operated out of an office on Lexington Avenue, right around the corner from plaintiff's Manhattan office, from about 2019 through 2022 (NYSCEF Doc. No. 98 at 26). It was only four or five blocks between these offices (*id.* at 55-56). And she admitted that she provided pain management services at this office (*id.* at 56).

The Court now turns to the liquidated damages provision.

“In addition, the P.C. shall be entitled to liquidated damages in the amount of One Thousand (\$1,000) Dollars for each day that you are determined to have violated the foregoing restrictive covenant. This sum shall be considered as liquidated damages and not as a penalty and is agreed to by the parties inasmuch as there is no other precise method of determining the P.C/s damages in the event of your violation of the restrictive covenant” (NYSCEF Doc. No. 82, ¶ 11[e]).

“Whether a provision in an agreement is an enforceable liquidation of damages or an unenforceable penalty is a question of law, giving due consideration to the nature of the contract and the circumstances. The party seeking to avoid liquidated damages bears the burden to show that the stated liquidated damages are, in fact, a penalty” (*Kim v Bedouet*, 238 AD3d 513, 514, 234 NYS3d 55 [1st Dept 2025]).

The Court finds that this provision is enforceable under the circumstances of this case. Defendant was paid \$240,000 per year plus the chance to recoup 30% of annual collections once plaintiff gathered \$510,000 in collections. This means the amount--\$1,000 per day—is reasonably related to the amount plaintiff might have to pay defendant in a given year and to how much she may have generated for plaintiff in terms of revenue. Moreover, defendant did not meet her burden to explain why this provision operates as a penalty.

Defendant’s assertion that damages can be ascertained by finding the patients that left the practice for defendant’s competing practice is not a sufficient retort. The purpose of liquidated damages is to make it easy to calculate damages—attempting to find every patient that may have left, how much treatment they may have needed and how much revenue they might have generated is entirely speculative.

Moreover, defendant’s claim that she began working for plaintiff only two days a week is inapposite. Defendant does not claim that she renegotiated the terms of this employment agreement or that she agreed to take only a percentage of her salary. The fact is that defendant, an accomplished professional, signed a clear agreement that included a liquidated damages clause and a restrictive covenant limiting where she could open up a competing practice. And, it is undisputed that despite signing this agreement, she decided to open up her own pain management practice right around the corner. The choice of her new location made it more convenient, not less, for patients to potentially follow her. To get to the new office, the patients would probably get off at the same subway or bus stop.

Defendant’s affirmation in support of her motion (NYSCEF Doc. No. 79) and in opposition to plaintiff’s motion (NYSCEF Doc. No. 111) does not deny that she opened up her own pain management practice. Rather, she contends that she thought she was a partner.

Unfortunately, that belief is not supported in any document. A one-sided belief that an employee, subject to an employment agreement, became a partner does not raise an issue of fact here. That defendant claims she paid rent (plaintiff says it was rent for a procedure performed by defendant's other practice at plaintiff's facility) is not sufficient to deny plaintiff's motion because defendant only claims she paid rent a single time.

Other arguments raised by defendant do not compel the Court to deny plaintiff's motion. The agreement required plaintiff to pay her medical malpractice insurance premiums only when she reached \$510,000 in professional collections (NYSCEF Doc. No. 82, ¶ 3[a]). It did not require such payment in all instances. Defendant's assertion that plaintiff admitted she was not an employee in a litigation is also not an issue of fact as that pleading requested whether she was an employee at all times (NYSCEF Doc. No. 87), which she was not as she left in 2021.

Summary

Plaintiff seeks partial summary judgment on its first cause of action for breach of contract. That request is granted for the reasons described above. There is no dispute defendant opened up her own practice in clear violation of the geographic and time period restrictions in the employment agreement.

The Court also grants plaintiff's request to dismiss defendant's counterclaims which seeks to recover \$100,000 in unpaid compensation. As plaintiff correctly pointed out, defendant did not submit any documentation to show that she is entitled to this compensation. For instance, defendant did not demonstrate that she met the threshold in the contract to receive the bonus (i.e., the 30% of collections). Of course, the quasi-contract counterclaims are dismissed as there is a valid contract that governs the parties' obligations.

The Court recognizes that plaintiff also asked for a permanent injunction. However, as this relief was neither demanded in the notice of motion or in the pleading, the Court declines to grant this relief. And, even if it were, the Court would not issue a permanent injunction. That is the purpose of the liquidated damages provision. There is no reason to award damages and also restrict defendant’s employment opportunities (and possibly the ability to pay the damages) at the same time.

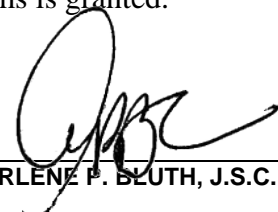
Plaintiff also asks the Court to award liquidated damages but does not identify a specific amount. In any event, the amount to be awarded is to be decided by a fact finder, who shall assess the number of days defendant was in violation of the restrictive covenant.

Accordingly, it is hereby

ORDERED that defendant’s motion for summary judgment is denied; and it is further

ORDERED that plaintiff’s motion for partial summary judgment on its breach of contract claim is granted on liability and to dismiss defendant’s counterclaims is granted.

1/29/2026
DATE


ARLENE P. BLUTH, J.S.C.

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| CHECK ONE: | <input type="checkbox"/> CASE DISPOSED | <input checked="" type="checkbox"/> NON-FINAL DISPOSITION |
| | <input type="checkbox"/> GRANTED <input type="checkbox"/> DENIED | <input checked="" 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 |