

Doe v Brand
2026 NY Slip Op 30408(U)
January 30, 2026
Supreme Court, New York County
Docket Number: Index No. 952136/2023
Judge: Adam Silvera
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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. ADAM SILVERA PART 01M

Justice

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JANE DOE,

Plaintiff,

- v -

RUSSELL BRAND, WARNER BROS. PICTURES, INC., WARNER BROS. DISCOVERY, INC., MBST ENTERTAINMENT, INC., BENDERSPINK, INC., AND LANGLEY PARK PICTURES

Defendant.

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INDEX NO. 952136/2023

MOTION DATE 01/22/2026

MOTION SEQ. NO. 006

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 006) 60, 61, 62, 63, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77

were read on this motion to/for PRECLUDE

Upon the foregoing documents and after oral argument on the record on January 21, 2026, it is ordered that plaintiff's motion to preclude defendants' damages experts, including but not limited to Dr. Alexander Sasha Bardey, from offering testimony and opinions at trial and precluding Dr. Bardey from submitting expert reports into evidence at trial¹ is determined as follows:

Plaintiff commenced this action pursuant to the Adult Survivors Act alleging, inter alia, that she was sexually abused by defendant Russell Brand on the set of the motion picture Arthur. With this motion, plaintiff seeks an order precluding defendants' experts, including but not limited to, Dr. Alexander Shasha Bardey from testifying at trial and precluding Dr. Bardey from submitting expert reports into evidence.

¹ The other portions of the motion to sanction defendants and revoke pro hac vice status were withdrawn on January 21, 2026.

The crux of this motion pertains to whether defendants' IME doctor, Alexander Shasha Bardey, M.D., violated the oral ruling of the Hon. Shlomo Hagler, given over the phone, just before the psychiatric evaluation began. On the issue of whether Dr. Bardey may ask questions regarding plaintiff's finances, it is undisputed that Justice Hagler ruled that "blanket" financial questions untethered to plaintiff's alleged stress could not be asked, but that questions about plaintiff's finances tied to his evaluation of her emotional distress would be permissible.

In support of her motion, plaintiff submits the affidavit of Adriana Martinez, employee of IME Watchdog Inc. who attended plaintiff's IME after being retained by plaintiff's counsel. She avers, among other things, that plaintiff was asked two questions that violated Justice Hagler's rulings. Specifically, she states that at one point Dr. Bardey asked plaintiff, "how much was the case against her brothers" and later on asked "how much did you spend on lawyers." Plaintiff argues that these questions about plaintiff's finances were blanket financial questions, untethered to her alleged stress and, thus, violated Justice Hagler's directive. Moreover, plaintiff argues that given the recency of the ruling, the deliberate defiance demonstrates willful and contumacious behavior warranting preclusion.

In opposition, defendants submit, inter alia, the affirmation of Dr. Bardey. Bardey explains that in plaintiff's therapy records there were numerous references to finances as a source of anxiety and stress, especially in reference to legal proceedings with her brothers. He avers that he understood Justice Hagler's ruling and did not believe that he violated it. He points out that over the course of an approximate two-hour evaluation that only two questions were flagged² as problematic. Further, he adds that these two questions were not asked in a vacuum but were in the

² The subject questions were only flagged as problematic after the fact and were not objected to during the course of the examination.

context of discussing how the lawsuits against her brothers, the resulting judgment, and related fees were a source of her stress and are relevant to his evaluation of her mental state.

Pursuant to CPLR 3126, “if any party . . . or agent of a party or otherwise under a party’s control, refuses to obey an order for disclosure . . . the court may make such orders with regard to the failure or refusal as are just, among them: prohibiting the disobedient party from . . . producing in evidence designated things or items of testimony” (CPLR 3126[2]). It is in the court’s discretion to determine the appropriate penalty, if any, to be imposed pursuant to CPLR 3126 (*see Arts4all, Ltd. v Hancock*, 54 AD3d 286 [1st Dept 2008]). Sanctions under this provision are often given for “repeated noncompliance with the court’s disclosure orders” where conduct throughout litigation has been “dilatatory, evasive, obstructive and ultimately contumacious” (*id.* quoting *Rosenfeld, Inc. v Bower & Gardner*, 161 AD2d 374 [1990]). Preclusion is a drastic remedy and should only be ordered where a party’s failure to comply with a disclosure order was willful, deliberate, and contumacious (*see Holliday v Jones*, 36 AD3d 557 [1st Dept 2007]).

Here, the alleged deliberate disobedience with a court order does not relate to repeated nondisclosure. Nevertheless, *assuming arguendo* that this is the appropriate application, Dr. Bardey’s two questions over the course of a roughly two-hour examination, about how much the case was against her brothers and how much she spent on lawyers, are not blanket questions untethered to her alleged emotional distress. The questions are related to sources of stress that no one disputes are in plaintiff’s therapy notes. The fact that they were not asked as compound questions like “how much was the case against your brothers, and how did that make you feel” is tantamount to an objection over form and is taken out of context from the larger inquiry into how litigation with her brothers allegedly stressed her. Moreover, based on these facts, the penalty of

precluding the entirety of the IME³ report and Dr. Bardey from testifying would be extreme. Furthermore, to the extent that plaintiff's argument regarding the private discussion held between Dr. Bardey and defense counsel during the IME pertains to the remaining portion of the motion for preclusion, it is also found unavailing.

Accordingly, plaintiff's motion is denied in its entirety.

This constitutes the decision and order of the court.

1/30/2026
DATE

ADAM SILVERA, J.S.C.

CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION	
	<input type="checkbox"/>	GRANTED	<input checked="" type="checkbox"/>	GRANTED IN PART	<input type="checkbox"/>
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER		SUBMIT ORDER	<input type="checkbox"/>
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN		FIDUCIARY APPOINTMENT	<input type="checkbox"/>
					<input type="checkbox"/>
					REFERENCE

³ This motion was made before the IME report was available and, as a result, it was not provided as an exhibit to the motion papers. To the extent that plaintiff believes portions of the report should be redacted or that there are certain subject matters to which it would be inappropriate for Dr. Bardey to opine on at trial, motions in limine could be made to the appropriate trial judge at the appropriate time after the parties have met and conferred.