

Whitestone Plaza Assoc., Inc. v Seneca Ins. Co.

2026 NY Slip Op 30467(U)

February 6, 2026

Supreme Court, New York County

Docket Number: Index No. 654201/2023

Judge: Arlene P. Bluth

Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op 30001(U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.

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

WHITESTONE PLAZA ASSOCIATES, INC., WHITESTONE
AUTO CENTER, INC

Plaintiff,

- v -

SENECA INSURANCE COMPANY, UTICA FIRST
INSURANCE COMPANY,

Defendant.

-----X

INDEX NO. 654201/2023

MOTION DATE N/A

MOTION SEQ. NO. 004

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 004) 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 104, 105

were read on this motion to/for EXTEND - TIME.

Defendant Seneca Insurance Company (“Seneca”)’s motion to extend the time to file the note of issue and defendant Utica First Insurance Company (“Utica”)’s cross-motion to extend the note of issue deadline and to compel plaintiffs and Seneca to produce discovery is decided as described below.

Background

This is a fairly routine breach of contract case where plaintiffs seek to collect proceeds under insurance policies issued by defendants Seneca and Utica for damages to their property that resulted from a windstorm on September 1, 2021. This action was commenced on August 29, 2023. The Court issued a Preliminary Conference Order on November 7, 2024 in which the parties agreed to serve responses to written discovery on or before December 13, 2024 and to complete party depositions on or before March 14, 2025; that stipulation was so-ordered (NYSCEF Doc. No. 20). The Court added to that stipulation an order to update the Court on the

status of discovery on or before March 17, 2025 (*id.*). The parties did not update the Court, so the Court assumed that discovery had been completed and ordered a note of issue be filed on or before April 4, 2025 (*see* NYSCEF Doc. No. 21). On March 21, 2025, the parties proposed a stipulation with a deadline of March 21, 2025 to complete an inspection of plaintiffs' property, a deadline of April 18, 2025 for Utica to respond to Seneca's outstanding document demands, and a deadline of May 30, 2025 to complete "all depositions" (NYSCEF Doc. No. 23).

Previously, this Court granted motions by both defendants to strike the note of issue in a decision dated May 22, 2025 (NYSCEF Doc. No. 78). In that order, the Court set a June 11, 2025 deadline for plaintiffs to respond to an outstanding demand from Utica and a July 16, 2025 deadline for deposition to be completed (*id.* at 4). Seneca then uploaded a letter on June 23, 2025 requesting yet another extension of the deposition deadline and the Court granted that request, extending the deadline all the way to December 19, 2025 (NYSCEF Doc. No. 82).

Now, Seneca moves to extend the note of issue deadline yet again and admits the parties have not done a single deposition. It contends that the failure to do any depositions was not due to a lack of diligence but because the three parties could not coordinate availability in all those years. Seneca adds that "Good cause is present here because: the parties have diligently exchanged written discovery; the parties are in the process of scheduling depositions" (NYSCEF Doc. No. 85, ¶ 11).

Utica also seeks to extend the note of issue and contends that plaintiffs still owe outstanding discovery and that although the parties started plaintiffs' deposition on November 25, 2025, it was not completed "due to time constraints and other engagements by the plaintiff-witness himself" (NYSCEF Doc. No. 89, ¶ 13).

Seneca claim in response that it does not owe any discovery to Utica.

Plaintiffs did not bother to upload anything, not a single word, about the status of discovery or whether they want to move this case forward.

Discussion

Quite frankly, this Court is baffled at the parties' collective lackadaisical approach to resolving this case. In May 2025, this Court set firm deadlines in this 2023 case and now, nearly a year later and three years after this case started, the parties have only done a single and partial session of plaintiffs' deposition. This is not a multi-district litigation involving dozens of parties located around the country. Rather, this is a straightforward insurance dispute. It appears the parties would rather spend time writing letters and making motions rather than actually doing the outstanding depositions.

In any event, because plaintiffs chose not to oppose at all, this Court grants the instant applications to the extent that the note of issue deadline is extended to February 9, 2027. Clearly, the Court setting reasonable deadlines and granting generous extensions has had little to no impact on motivating the parties to finish this case. Another year might possibly be enough for the parties to finish discovery. No further extensions will be granted and the failure to file a note of issue by this deadline will result in the case being marked as disposed.

The Court declines to order any party to respond to outstanding demands or to schedule another conference. Throughout this case, prior court deadlines were routinely ignored and so there seems little point in setting another deadline that a party will most likely ignore. If they fail to complete discovery by next February and the note of issue is filed, then they will have a trial anyway.

Accordingly, it is hereby

ORDERED that defendants' applications are granted to the extent that the note of issue deadline is extended to February 9, 2027.

2/6/2026
DATE


ARLENE P. BLUTH, 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