

Qhshi v Alsaedi

2026 NY Slip Op 30492(U)

February 5, 2026

Supreme Court, Kings County

Docket Number: Index No. 513067/2023

Judge: Reginald A. Boddie

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This opinion is uncorrected and not selected for official publication.

At an IAS Commercial Term Part 12 of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse, located at 360 Adams Street, Borough of Brooklyn, City and State of New York on the 5th day of February 2026.

P R E S E N T:

Honorable Reginald A. Boddie
Justice, Supreme Court

-----X
SALEH ALI QUHSHI,

Plaintiff,

Index No. 513067/2023

-against-

Cal. No. 18 MS 5

HAMOOD ALSAEDI, GREENPOINT ORGANIC
MARKET, INC.,

Decision & Order

Defendants.
-----X

The following e-filed papers read herein:
MS 5

NYSCEF Doc Nos.
72-77

Upon the foregoing papers, Plaintiff, Saleh Ali Quhshi, moves for an Order, pursuant to CPLR § 3126, (i) striking the answer and affirmative defenses of Hamood Alsaedi and Greenpoint Organic Market, Inc. (“Defendants”), (ii) granting Plaintiff leave to enter a default, or, (iii) in the alternative, precluding Defendants from presenting evidence and testimony in support of their answer and affirmative defenses.

Plaintiff alleges that he and defendant Alsaedi are co-owners of Greenpoint Organic Market, a deli and grocery business, located at 626 Manhattan Avenue in Brooklyn. Plaintiff further alleges, pursuant to a written agreement, Alsaedi owns 75 percent of the business, and he owns the remaining 25 percent, and that Alsaedi locked him out of the business when he left the country for a period of time.

In May 2023, Plaintiff commenced this action asserting claims for declaratory judgment, accounting, shareholder distribution, owner oppression, dissolution, conversion, fraud and unjust enrichment. Plaintiff also sought \$900,000 in damages. A default judgment was entered on November 14, 2024, after Defendants failed to answer, and the matter was referred to a Referee for inquest (NYSCEF Doc No. 34). On April 2, 2024, the Referee so ordered a subpoena directed to Defendants to produce numerous financial documents (NYSCEF Doc No. 40). On April 21, 2024, Defendants moved to vacate the default, and Plaintiff cross-moved to compel compliance with the subpoena. The default and the subpoena were vacated pursuant to a decision dated May 15, 2025 (NYSCEF Doc. Nos. 53 and 54). Defendants filed an answer on June 9, 2025. Thereafter, the court issued a preliminary conference order dated July 1, 2025. By order dated October 14, 2025, the parties were directed to complete their exchange of documents and to conduct depositions on November 25, 2025 (NYSCEF Doc. No. 60). The discovery and depositions were never completed. On December 9, 2025, another order was issued directing the completion of discovery and for the deposition of Plaintiff on January 8, 2026, and Defendants on January 19, 2026 (NYSCEF Doc. No. 70). On January 7, 2026, Plaintiff filed the instant motion for relief, alleging Defendants' continued failure to provide the outstanding documents and to participate in a deposition.

Defendants do not deny their continued failure to comply with the discovery orders issued on July 1, 2025, November 25, 2025 and December 9, 2025. Instead, they allege inability to comply because Defendant Alsaedi is allegedly "stuck in Yemen," a country at war. However, at previous conferences before this Court, their counsel indicated that, despite Alsaedi being in Yemen, he was able to communicate with him, although sparingly at times. Counsel does not deny that he is able to communicate with his client, that his client is able to travel to the U.S., or that

there are some internet services available in the country, and his client is not a member of the armed forces in Yemen. Instead, counsel merely relies on the fact that the U.S. Government has recommended against travel to Yemen and that Yemen is at war, to justify his clients' persistence in failing to take any action to comply with the orders of this Court.

CPLR 3126, permits sanctions where a party fails to disclose information which a court finds ought to have been disclosed, and provides 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 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 the issues to which the information is relevant shall be deemed resolved for 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.

Here, Defendants have consistently and willfully disregarded the orders of this Court directing that they produce outstanding discovery. The allegation that Defendant Alsaedi is in Yemen, alone, will not suffice. Alsaedi has been permitted more than sufficient time to cooperate and, at his option, to return to the U.S. He failed to cooperate, return to the U.S., or provide any proof of his efforts in this regard. Furthermore, Greenpoint Organic Market, the deli and grocery store, continue to remain operational as a business in Brooklyn, which presumes the generation of certain documents and other records in Brooklyn, which Defendant have also failed to produce.

Pursuant to CPLR 3126, a court may resort to the drastic remedies of striking a pleading or precluding evidence upon a clear showing that a party's failure to comply with a disclosure order was the result of willful and contumacious conduct (*Ambroise v Palmana Realty Corp.*, 197 AD3d 1226, 1227 [2d Dept 2021]). "A court can infer that a party is acting willfully and contumaciously through the party's repeated failure to adequately respond to discovery demands or to comply with discovery orders" (*Cobo v Pennwalt Corp. Stokes Div.*, 185 AD3d 650, 652 [2d Dept 2020]). Defendants here have repeatedly failed to produce the outstanding discovery responses and to participate in a deposition, without adequate justification. Accordingly, if Defendants' discovery responses are not provided within twenty five days hereafter, and the deposition of Defendants conducted within twenty days thereafter, their answer and counterclaims shall be deemed stricken.

ENTER:



Honorable Reginald A. Boddie
Justice, Supreme Court

**HON. REGINALD A. BODDIE
J.S.C.**