

McKew v Public Admr. of N.Y. County

2026 NY Slip Op 31238(U)

March 26, 2026

Supreme Court, New York County

Docket Number: Index No. 656214/2016

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

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MARK L. MCKEW, AS RECEIVER OF 11-15 ST.
NICHOLAS AVENUE HDFC AND ITS REAL PROPERTY,

Plaintiff,

INDEX NO. 656214/2016

MOTION DATE 03/23/2026

MOTION SEQ. NO. 027

- v -

THE PUBLIC ADMINISTRATOR OF NEW YORK COUNTY,
AS ADMINISTRATOR OF THE ESTATE OF ROBERT
SHAW, ABC MANAGEMENT CORP., JPMORGAN CHASE
& CO., ANN BROOKS, MARTA BATIZ, TYRONE
PATTERSON,

Defendant.

**DECISION + ORDER ON
MOTION**

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The following e-filed documents, listed by NYSCEF document number (Motion 027) 446, 447, 448, 449,
450, 451, 452, 453, 454, 455, 470

were read on this motion to/for STRIKE PLEADINGS.

Plaintiff’s motion to strike the amended answer and counterclaim of defendant Tyrone
Patterson is granted as described below.

Background

In this action, plaintiff seeks *inter alia* the ejectment of defendant Patterson from units in
the subject building. Plaintiff observes that all of the defendants in this case except for Patterson
and the Public Administrator have settled with plaintiff.

Plaintiff served discovery demands on April 14, 2025 on defendant Patterson and, after a
conference on June 16, 2025, defendant Patterson was directed by the Court to respond to
plaintiff’s interrogatories by June 20, 2025 and appear for a deposition by July 31, 2025. Plaintiff
complains that Patterson never responded to his request for documents, did not serve adequate
interrogatory responses nor did he appear for a deposition.

Plaintiff then sent a deficiency letter in which he detailed that there were no documents produced and the interrogatory responses were wholly insufficient. They did not contain the caption, an attorney's signature, they failed to include the interrogatory request preceding the answer and did not include an oath or verification from defendant Patterson. In other words, the response was completely inadequate.

Plaintiff explains that he has not received a response to this deficiency letter and that defendant Patterson has also failed to respond to requests for party statements, incident reports, and photographs or appear for his deposition.

Defendant Patterson did not upload opposition papers. Instead, he uploaded a document titled "Jackson Affidavit" that was not filed in connection with this motion sequence number. In this document, defendant contends that he served written responses to plaintiff's interrogatories in October 2025 and that he has not withheld any responsive information. He insists that he will supplement his responses if he later obtains responsive information or documents.

In reply, plaintiff observes that defendant's "response" did not address many of the issues identified in the moving papers. Moreover, plaintiff points out that despite the filing of the instant motion, defendant Patterson has not produced a single document in response to plaintiff's April 2025 document demand. He contends that this defendant's insistence that he produced documents is simply not true and points out that there were no exhibits attached to the motion. With respect to the *Jackson* affidavit uploaded in connection with this motion, plaintiff contends that it does not provide any details about the searches for specific documents.

Discussion

Based on this record, the Court has little choice but to strike defendant Patterson's answer and remaining counterclaim. Plaintiff served routine document requests and interrogatories on defendant Patterson and did not receive any sufficient responses. Patterson did not bother to send formal responses for the document requests even in response to this motion. And the information plaintiff seeks is crucial to this case. For instance, plaintiff demands documents that demonstrate defendant Patterson's ownership of the units in question and proof of payment (NYSCEF Doc. No. 452 at 12 of 17). Defendant Patterson did not directly respond to this document request, or any document request for that matter, and instead offers a conclusory assertion that he has no documents.

Of course, the purported *Jackson* affidavit is insufficient as it does not state where this defendant searched for these records and where the records were likely to be located. Plaintiff's central contention in this case is that Patterson fraudulently caused shares of stock appurtenant to specific units to be issued to himself. Therefore, it is entirely logical to seek highly relevant documents and information surrounding Patterson's purported ownership and purchase of these shares, records which should be in his exclusive possession and control. The affidavit submitted on this motion does not come close to explaining why he does not possess such documents or what he did to try and locate these documents.

Moreover, despite plaintiff identifying the ways in which defendant Patterson failed to properly respond to the interrogatories in the moving papers, Patterson did not remedy those issues in response to this motion. To be sure, some of these requirements are procedural. But, taken together with the failure to serve a formal response to the document requests, the failure to turn over any document and the failure to explain how it could be possible to not possess any

relevant documents, the Court is compelled to find that this constitutes willful and contumacious behavior.

The fact is that plaintiff followed the typical procedural steps to seek this relevant and logical discovery. And now, when confronted with a motion to strike his pleadings, defendant Patterson only offers a vague and conclusory assertion that he has no documents without including any exhibits or even addressing the vast majority of plaintiff's demands.

Accordingly, it is hereby

ORDERED that plaintiff's motion is granted only to the extent that defendant Patterson's answer and remaining counterclaim are stricken and it is hereby

ADJUDGED that ORDERED that the plaintiff is entitled to judgment with respect to its ejectment claim against defendant Patterson; and it is further

ADJUDGED that plaintiff is entitled to possession of 11-15 St. Nicholas Avenue, Units 1D and 1E, New York, New York as against defendant Patterson, and the Sheriff of the City of New York, County of New York, or a City Marshal, upon receipt of a certified copy of this Order and Judgment and payment of proper fees, is directed to place plaintiff in possession accordingly; and it is further

ADJUDGED that immediately upon entry of this Order and Judgment, plaintiff may exercise all acts of ownership and possession of 11-15 St. Nicholas Avenue, Units 1D and 1E, New York, New York, including entry thereto, as against defendant Patterson ; and it is further

ORDERED that the balance of the above-entitled action relating to recovery of damages is severed and continued.

See NYSCEF Doc. No. 445 regarding the next conference.



3/26/2026
DATE

CHECK ONE:

CASE DISPOSED

GRANTED

DENIED

SETTLE ORDER

INCLUDES TRANSFER/REASSIGN

NON-FINAL DISPOSITION

GRANTED IN PART

SUBMIT ORDER

FIDUCIARY APPOINTMENT

OTHER

REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: