

People v GPB Capital Holdings, LLC
2026 NY Slip Op 31327(U)
March 31, 2026
Supreme Court, New York County
Docket Number: Index No. 450287/2021
Judge: Andrew Borrok
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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. ANDREW BORROK PART 53

Justice

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THE PEOPLE OF THE STATE OF NEW YORK, BY
LETITIA JAMES, ATTORNEY GENERAL OF THE STATE
OF NEW YORK,

Plaintiff,

- v -

GPB CAPITAL HOLDINGS, LLC, DAVID GENTILE, JEFFRY
SCHNEIDER, ASCENDANT CAPITAL, LLC, ASCENDANT
ALTERNATIVE STRATEGIES, LLC,

Defendant.

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INDEX NO. 450287/2021

MOTION DATE

MOTION SEQ. NO. 005

DECISION + ORDER ON
MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 005) 94, 95, 96, 97, 98,
99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 124, 125,
127, 203, 204, 205, 206, 207, 208, 209, 210

were read on this motion to/for STAY

Upon the foregoing documents, Defendants David Gentile, Jeffry Schneider, Ascendant Capital,
LLC, and Ascendant Alternative Strategies, LLC (collectively the Moving Defendants) motion
to reargue and renew is DENIED.

A motion for leave to reargue "shall be based upon matters of fact or law allegedly
overlooked or misapprehended by the court in determining the prior motion" (CPLR §
2221[d]). Reargument is not intended "to afford the unsuccessful party successive
opportunities to reargue issues previously decided or to present arguments different from
those originally asserted" (Haque v Daddazio, 84 AD3d 940, 242 [2d Dept 2011]; Foley
v Roche, 68 AD2d 558 [1st Dept 1979]). The instant motion amounts to just that. As
such it must be DENIED.

Pursuant to CPLR § 2201, a court may stay a civil proceeding pending the resolution of a related criminal action (*Matter of Kopf*, 169 AD2d 428, 429 [1st Dept 1991]; *215 West 84th St Owner LLC v Ozsu*, 209 AD3d 401, 401 [1st Dept 2022] [“a court has broad discretion to grant a stay”]). When a criminal matter is pending, factors that the court will consider are “avoiding the risk of inconsistent adjudications, application of proof and potential waste of judicial resources” (*Britt v International Bus Services, Inc.*, 255 AD2d 143, 144 [1st Dept 1998]). Prior to the resolution of a criminal proceeding, a “trial court...[is not] obliged to stay the civil proceedings even where the parties have invoked their Fifth Amendment privilege against self-incrimination” (*Matter of Kopf*, 169 AD2d at 429). It is uniformly recognized that a sentence and conviction mark the resolution of a criminal case (*see e.g., Morgenthau v Basbus*, 68 AD3d 442, 443 [1st Dept 2009]; *People v Wachtell*, 181 Misc. 1012, 1014 [NY Sup. Ct., New York County 1943]; *United States v Tulsiram*, 815 F3d 114, 115 [2d Cir 2016]).

For clarity, the Court did not lift the stay because “time had gone by” or anything like that and the Court did consider all of the defendants arguments. The Court lifted the stay and determined that the EDNY Criminal Case had been resolved when David Gentile and Jeffrey Schneider were convicted and sentenced (NYSCEF Doc. No. 74 ¶ 4; NYSCEF Doc. Nos. 75-76) and rejected the argument that the case will not be resolved until all potential appeals have been exhausted or until any restitution amount was determined (*see e.g., Morgenthau*, 68 AD3d at 443; *People*, 181 Misc. at 1014 ; *Tulsiram*, 815 F3d at 115). The Moving Defendants are also not correct that the Court did not consider their other arguments. In fact, the Court wrote that “[t]he Court has considered the defendants’

remaining arguments and finds them unavailing” (NYSCEF Doc. No. 91). As such, the branch of the motion seeking reargument is DENIED.

A motion for leave to renew “shall be based upon new facts not offered on the prior motion that would change the prior determination or shall demonstrate that there has been a change in the law that would change the prior determination” (CPLR § 2221[e][2]). Within this, “a party must show it made diligent efforts to obtain the evidence it now relies on, and provide a reasonable justification for failing to include it in the prior motion” (*Perretta v New York City Tr. Auth.*, 230 AD3d 428, 431 [1st Dept 2024]; *id.* § 2221[e][3]). Although motions to renew are addressed to the court’s sound discretion (*William P. Pahl Equip. Corp. v Kassis*, 182 AD2d 22, 27 [1st Dept 1992]), such motions should be “granted sparingly” and are not a second chance for parties who have not exercised due diligence submitting facts in the prior motion (*Beiny v Wynyard (In re Beiny)*, 132 AD2d 190, 209-210 [1st Dept 1987]).

In moving to renew, the Moving Defendants adduce evidence that was available at the time of the Court’s decision to vacate the stay (*see e.g.*, NYSCEF Doc. Nos. 103 [a letter dated June 12, 2025]) and have not shown that they have “made diligent efforts to obtain the evidence it now relies on, and provide[d] a reasonable justification for failing to include it in the prior motion” (*see Perretta*, 230 AD3d at 431; CPLR § 2221[e][2]-[3]). The Moving Defendants have likewise failed to demonstrate any new factual developments that would justify a departure from the Court’s prior determination (*see*

William P. Pahl Equip. Corp., 182 AD2d at 27; *Beiny*, 132 AD2d at 209-210; CPLR § 2221[e][2]). Consequently, the branch of the motion seeking renewal is DENIED.

The Court has considered the parties' remaining arguments and finds them unavailing.

Accordingly, it is hereby ORDERED that the Moving Defendants' motion (Mtn. Seq. No. 005) is DENIED.

3/31/2026
DATE

CHECK ONE:

APPLICATION:

CHECK IF APPROPRIATE:

<input type="checkbox"/>	CASE DISPOSED
<input type="checkbox"/>	GRANTED
<input type="checkbox"/>	SETTLE ORDER
<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN

<input checked="" type="checkbox"/>	DENIED
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<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION
<input type="checkbox"/>	GRANTED IN PART
<input type="checkbox"/>	SUBMIT ORDER
<input type="checkbox"/>	FIDUCIARY APPOINTMENT

<input type="checkbox"/>	OTHER
<input type="checkbox"/>	REFERENCE


