

Johnson Litig. Group, P.C. v Ruelas
2026 NY Slip Op 31426(U)
April 6, 2026
Supreme Court, New York County
Docket Number: Index No. 151355/2024
Judge: Leslie A. Stroth
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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. LESLIE A. STROTH PART 12M

Justice

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JOHNSON LITIGATION GROUP, P.C., KEVIN S. JOHNSON,

Plaintiff,

- v -

LUIS A. RUELAS, BEAU DIETL CONSULTING SERVICES, LLC, BEAU CONSULTANTS, LLC, MICHAEL E. RUGGERIO, RICHARD A. BO DIETL, DANIELLE K. CONN ROSENBERG, ROSENBERG LAW, P.C., DANIELLE CONN ROSENBERG, LLC, MARCO A. LARACCA, BIO & LARACCA, P.C.

Defendant.

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INDEX NO. 151355/2024
MOTION DATE 04/11/2024, 04/11/2024, 05/13/2024
MOTION SEQ. NO. 002 004 005

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 002) 36, 37, 38, 39, 40, 41, 59, 60, 61, 104

were read on this motion to/for DISMISS

The following e-filed documents, listed by NYSCEF document number (Motion 004) 27, 28, 29, 30, 31, 32, 33, 34, 62, 63, 64, 83, 84, 103

were read on this motion to/for DISMISSAL

The following e-filed documents, listed by NYSCEF document number (Motion 005) 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 86, 105, 108, 109

were read on this motion to/for DISMISSAL

FACTUAL AND PROCEDURAL BACKGROUND

This action arises from alleged illegal hacking of computers, cloud drives, and emails belonging to self-represented Plaintiffs Johnson Litigation Group, P.C. and Kevin S. Johnson ("Plaintiffs") between February through July 2023, in connection with Defendant Luis A. Ruelas' litigation with his for fiancé. Plaintiffs commenced the instant action by Summons with Notice on February 12, 2024 (NYSCEF Doc. No. 1). On February 20, 22, and 23, and March 22, 2024, Defendants filed Demands for Complaint (NYSCEF Doc. No. 2-4, 25). On April 11,

2024, Defendant Luis A. Ruelas, and Defendants Beau Dietl Consulting Services, LLC, Michael E. Ruggiero s/h/a Michael E. Ruggerio, Richard A. Dietl, Danielle K. Conn Rosenberg, Esq., and Danielle Conn Rosenberg, LLC (collectively, the “Dietl Defendants”), filed motion sequences 002 and 004, seeking to dismiss the case, pursuant to CPLR 3012(b), for failure to serve a complaint within 20 days from the demand.

On April 22, 2024, Plaintiffs filed a verified complaint (NYSCEF Doc. No. 53), asserting thirteen causes of action, including violations of the Federal Wiretap Act, the Computer Fraud and Abuse Act, the Stored Communications Act, and the Electronic Privacy Act.

Also on April 22, 2024, Plaintiffs filed an opposition to motion sequences 002 and 004, arguing that the motions should be denied because counsel suffered from severe illness (NYSCEF Doc. No. 62). The opposition also asserts that the verified complaint presents a meritorious claim, and that Defendants did not suffer any prejudice because the delay was less than two weeks. On reply, Defendants argue that the Complaint should be dismissed as still be dismissed as untimely because Plaintiffs did not submit any evidence to support their claims.

On May 15, 2024, the Dietl Defendants filed motion sequence 005, seeking to dismiss the Complaint as untimely, pursuant to CPLR 3012(b), and for failure to state a claim, pursuant to CPLR 3211(a)(7). Motion sequence 005 also seek sanctions, arguing that the Complaint is frivolous and filed to distract from Plaintiff’s own misconduct.

On June 13, 2025, more than a year after motion sequence 005 was filed, Plaintiff filed an amended complaint, which was subsequently returned for correction (NYSCEF Doc. No. 96). Plaintiff never filed a corrected amended complaint. Also on June 13, 2025, Plaintiff filed an opposition to motion sequences 002, 004, and 005, arguing that the pending motions are mooted by the amended complaint.

On June 19, 2025, Defendant Ruelas and the Dietl Defendants filed notices of rejection of the amended complaint. Additionally, the Dietl Defendants filed a reply affirmation for motion sequence 005, arguing, *inter alia*, that the motion should be granted on default because the opposition was filed one year after the motion was marked fully submitted.

The Court scheduled oral argument on motion sequences 002, 004, and 005 on January 20, 2026. Plaintiffs did not appear for oral argument, and no application was made for an adjournment.

LEGAL STANDARD

CPLR 3012(b) provides that “[s]ervice of the complaint shall be made within twenty days after service of the demand [for the complaint].” “In order to avoid dismissal of an action under CPLR 3012(b) for failure to timely serve a complaint, it is incumbent upon the plaintiff to demonstrate both a meritorious cause of action and a reasonable excuse for the delay” (*Rios v. Skaters World Roller Rink, Inc.*, 246 AD2d 882, 882 [3d Dept 1998]; *see also Fawn Second Avenue LLC v First American Title Insurance Co.*, 192 AD3d 478 [1st Dept 2021]). “The determination of what constitutes a reasonable excuse for a default ‘lies within the sound discretion of the trial court’” (*Bardales v Blades*, 191 AD2d 667 [2d Dept 1993], quoting *Perellie v Crimson’s Rest.*, 108 AD2d 903 [2d Dept 1985]).

DISCUSSION

A. Motions to Dismiss

As an initial matter, the Court denies the Dietl Defendants’ first motion to dismiss (motion sequence 004) as moot in light of their subsequent motion to dismiss, filed after receiving the Complaint (motion sequence 005).

Turning to motion sequences 002 and 005, Plaintiffs filed the initial Complaint more than two months after the first Demand for Complaint was filed. Additionally, Plaintiffs filed an amended complaint and an opposition to motion sequence 005 more than a year after motion sequence 005 was marked fully submitted. Moreover, Plaintiffs failed to appear for the scheduled oral argument. Plaintiffs' affirmation in opposition to motion sequences 002 and 004 states that the Complaint was delayed because Plaintiff was sick (*see* NYSCEF Doc. No. 59 at 3). While this may be a reasonable excuse for the delay of the initial complaint, Plaintiffs have failed to provide any excuse as to why the amended complaint and the opposition to motion sequence 005 were filed over a year after the motion was marked fully submitted, or why Plaintiffs failed to appear for oral argument. Plaintiffs' late opposition also fails to provide any substantive arguments and merely states that the motions are moot in light of the amended complaint. However, the amended complaint does not appear to have any substantive changes and merely removes the allegations against defendants who have been discontinued from the action. Therefore, the motions to dismiss are granted.

B. Sanctions

In motion sequence 005, the Dietl Defendants also seek sanctions pursuant to 22 NYCRR 130-1.1(a) on the basis that party's allegations are frivolous because they are totally without merit or evidentiary support. The Court finds that the Dietl Defendants have failed to establish that the claims are frivolous. Therefore, the portion of the motion sequence 005 that seeks sanctions is denied.

Accordingly, it is hereby

ORDERED that Defendant Ruela's motion to dismiss (motion sequence 002) is granted; and it is further

ORDERED that the Dietl Defendant's first motion to dismiss (motion sequence 004) is denied as moot; and it is further

ORDERED that the Dietl Defendant's second motion to dismiss (motion sequence 005) is granted to the extent that the complaint is dismissed and is denied with respect to sanctions; and it is further

ORDERED that this action is dismissed against all defendants; and it is further

ORDERED that defendants shall, within twenty days of receipt of this decision and order, serve a copy of same, with notice of entry, upon plaintiffs as well as the Clerk of the Court, who is directed to enter judgment accordingly, and it is further

ORDERED that such service upon the Clerk of the Court and the Clerk of the General Clerk's Office shall be made in accordance with the procedures set forth in the Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases (accessible at the "Efiling" page on this court's website).

This constitutes the decision and order of the Court.

4/6/2026
DATE


LESLIE A. STROTH, J.S.C.

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