

Wolfman v Viewpark LLC
2026 NY Slip Op 31431(U)
April 6, 2026
Supreme Court, New York County
Docket Number: Index No. 155631/2023
Judge: Matthew V. Grieco
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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. MATTHEW V. GRIECO PART 30M

Justice

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LAURA WOLFMAN,

Plaintiff,

- v -

VIEWPARK LLC, KRYSANNE KATSOOLIS

Defendant.

-----X

INDEX NO. 155631/2023

MOTION DATE 09/09/2025

MOTION SEQ. NO. 003

DECISION + ORDER ON MOTION AND CROSS-MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 003) 41, 42, 43, 44, 46, 47, 48, 49, 50, 51, 52, 53

were read on this motion to/for DISMISS

Upon the foregoing documents, and for the reasons stated infra, the motion and cross-motion are granted to the extent that the parties are directed to comply with discovery pursuant to a new schedule set forth herein.

Plaintiff, Laura Wolfman, commenced this action in June 2023 to collect on a \$250,000 promissory note executed by defendant Krysanne Katsoolis, as president and CEO of defendant Viewpark LLC, reflecting a loan plaintiff was allegedly fraudulently induced to make; plaintiff also alleges that Katsoolis used all or some of the funds for personal purposes (NYSCEF Doc. No. 1).

By orders entered February 5, 2025, the Court (Arthur F. Engoron, J.) granted plaintiff summary judgment against Viewpark in the amount of \$250,000 plus statutory interest, denied plaintiff's motion to compel Katsoolis to respond to outstanding

documentary and informational discovery demands, and directed the parties to attend a preliminary conference on March 13, 2025 (NYSCEF Doc. No. 32-33).

The preliminary conference took place as scheduled, at the conclusion of which the Court (Engoron, J.) directed the parties to respond to outstanding discovery demands by May 30, 2025, for Wolfman to be deposed on or before July 20, 2025, and Katsoolis the next business day (NYSCEF Doc. No. 36).

By letter dated May 19, 2025, Katsoolis, pro se, objected to plaintiff's discovery demands (NYSCEF Doc. No. 37), and by letter dated July 14, 2025, she noticed a deposition of Wolfman for the following day (NYSCEF Doc. No. 38). The parties had some discussion about their positions on the discovery, but were unable to come to a meeting of the minds (*see* NYSCEF Doc. No. 40 [July 16, 2025 correspondence]).

On September 9, 2025, Katsoolis, pro se, moved pursuant to CPLR 3216 to dismiss the complaint for failure to prosecute (NYSCEF Doc. Nos. 41-44), asserting that plaintiff "has caused undue delay and has prevented the case from moving forward" and thus "unreasonably neglect[ed] to prosecute [the] action" (NYSCEF Doc. No. 42).

To obtain pre-note of issue dismissal of an action under CPLR 3216 for neglect to prosecute, four conditions must be satisfied: (1) issue has been joined; (2) one year has elapsed since joinder of issue, or six months have elapsed since the issuance of the preliminary conference order; (3) the party seeking dismissal, or the court, must have served a written demand upon plaintiff to resume prosecution and file a note of issue within 90 days, the failure of which would prompt a dismissal motion; and (4) plaintiff failed to comply (*see* CPLR 3216[b]; *Baczowski v D.A. Collins Constr. Co., Inc.*, 89 NY2d 499, 503 [1997]).

Neither Katsoolis nor the Court has sent a 90-day demand, and therefore dismissal pursuant to CPLR 3216 is not available. Moreover, Katsoolis's papers indicate that her objection is really a discovery dispute, more appropriately addressed by CPLR 3124 and 3126; her position is that plaintiff was required to attend the depositions Katsoolis scheduled. The Court will construe her motion as seeking relief under those two CPLR provisions.

Plaintiff cross-moves under CPLR 3124 and 3126 to compel discovery or in the alternative to strike Katsoolis's answer, arguing that Katsoolis must produce the demanded discovery before the deposition is conducted, as was directed by the preliminary conference order (NYSCEF Doc. Nos. 47-50).

At the outset, the Court rejects Katsoolis's contention that the cross-motion is procedurally defective for setting too short a return date, and notes that she was able to submit opposition papers that are more extensive and detailed than her moving papers.

As to the merits of the motion and cross-motion, under CPLR 3124, "[i]f a person fails to respond to or comply with any request, notice, interrogatory, demand, question or order under this article, except a notice to admit under section 3123, the party seeking disclosure may move to compel compliance or a response."

Relatedly, CPLR 3126 states that: "If any party ... refuses to obey an order for disclosure or wilfully 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," and then provides a non-exclusive list of penalties, including preclusion or dismissal of the offending party's pleading. Where the extreme sanction of striking a pleading is sought, the movant must make a clear showing that the failure to comply was willful, contumacious, or in bad faith, whereupon the burden

shifts to the nonmoving party to establish a reasonable excuse (*see Palmenta v Columbia Univ.*, 266 AD2d 90 [1st Dept 1999]).

On the current record, neither party appears to have acted in a willful, contumacious, or bad faith manner. However, Katsoolis is mistaken in contending that “[p]laintiff never ... obtained a discovery compliance order directing [her] to produce documents,” her basis for opposing plaintiff’s cross-motion (NYSCEF Doc. No. 51 ¶ 15). The March 13, 2025 preliminary conference order directed Katsoolis to respond to outstanding discovery demands by May 30, 2025, and for plaintiff to be deposed on or before July 20, 2025 and Katsoolis the next business day (NYSCEF Doc. No. 36). Katsoolis’s letter of May 19, 2025, asserting a blanket object to producing any documents (NYSCEF Doc. No. 37), is not in line with the preliminary conference directive.

Accordingly, the motion and cross-motion are granted only to the extent that the parties are directed to comply with the preliminary conference order, under a new schedule as set forth *infra*.

Katsoolis’s arguments that there is no basis for liability against her personally should be raised in a motion to dismiss or for summary judgment.

It is therefore

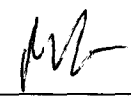
ORDERED that defendant Katsoolis’s motion to dismiss pursuant to CPLR 3216 is denied; and it is further

ORDERED that plaintiff’s cross-motion, and defendant Katsoolis’s motion to the extent it is for discovery remedies under CPLR 3124 and 3126, are granted only insofar as Katsoolis is to provide the demanded discovery by May 14, 2026, plaintiff is to be

deposed after that and before June 25, 2026, and Katsoolis is to be deposed after that and before July 2, 2026; and it is further

ORDERED that counsel and pro se defendant are directed to appear for a status conference in Room 623, 111 Centre Street, New York, New York on July 16, 2026, at 10:00 AM.

This constitutes the decision and order of the Court.

<u>4/6/2026</u> DATE					 MATTHEW V. GRIECO, J.S.C.			
CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input type="checkbox"/>	DENIED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION		
APPLICATION:	<input type="checkbox"/>	GRANTED	<input type="checkbox"/>		<input checked="" type="checkbox"/>	GRANTED IN PART	<input type="checkbox"/>	OTHER
CHECK IF APPROPRIATE:	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>		<input type="checkbox"/>	SUBMIT ORDER	<input type="checkbox"/>	REFERENCE
	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>		<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input type="checkbox"/>	