

Aretakis v Sheehan

2026 NY Slip Op 31455(U)

February 11, 2026

Supreme Court, Kings County

Docket Number: Index No. 740/2022

Judge: Francois A. Rivera

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At an IAS Term, Part 52 of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse, at Civic Center, Brooklyn, New York, on the 11th day of February 2026

HONORABLE FRANCOIS A. RIVERA

-----X
JOHN ARETAKIS,

Plaintiff,

- against -

JOHNNIE SHEEHAN, CHRISTY SHEEHAN, BARCHORD,
BARCHORD, INC.,

Defendants.
-----X

DECISION & ORDER

Index No.: 740/2022

Oral Argument: 1/22/2026

Cal. No.: 4 & 5

Ms. Seq. No.: 3 & 4

Recitation in accordance with CPLR 2219 (a) of the papers considered on the notice of motion filed on October 16, 2025, under motion sequence number three, by defendants Johnnie Sheehan, Christy Sheehan, Barchord, and Barchord, Inc. (hereinafter defendants) for an order (a) striking the plaintiff’s supplemental verified bill of Particulars, dated May 2, 2025 as to the claims and allegations set forth in John Aretakis v. Johnnie Sheehan, et al, Index No. 635/2022 as they were extinguished by the signing of a general release; and (b) precluding plaintiff from introducing any and all evidence or testimony as to the theories of liability set forth in *John Aretakis v. Johnnie Sheehan, et al*, Index No. 635/2022 and dismissed by the execution of the general release.

- Notice of motion
- Affirmation in support
Exhibits A-N
- Affirmation in reply¹

Recitation in accordance with CPLR 2219 (a) of the papers considered on the notice of motion filed on October 16, 2025, under motion sequence number four² by defendants Johnnie Sheehan, Christy Sheehan, Barchord, and Barchord, Inc. (hereinafter defendants) for an order (a) striking the plaintiff’s supplemental verified bill of particulars, dated May 2, 2025 and second supplemental bill of particulars dated August 1, 2025 that do not assert claims or damages relating

¹ NYSCEF Doc. No. 32, is titled “Reply Affirmation in Support”, however, the content of the affirmation serves as an affidavit in further support of the motion and in reply of plaintiff’s opposition to motion sequence number three, although there was no opposition filed by plaintiff before its filing.

² Motion sequence number four is not a separate motion, but rather a minor amendment to motion sequence number three, thus the motion papers filed under motion sequence number three are considered as one with this motion.

to personal injuries; and (b) precluding plaintiff from introducing any and all evidence or testimony that does not assert claims or damages relating to personal injuries.

-Affirmation in opposition³

MOTION PAPERS

The defendants' motion papers consist of a notice of motion, a document labeled as an affidavit in support, fourteen annexed exhibits labeled A through N, a document labeled as an affirmation of good faith. The document labeled as an affidavit in support and the document labeled as an affirmation of good faith were both signed by Marissa Bosek, Esq., the defendant's counsel (hereinafter Bosek).

The plaintiff's opposition papers consist of a document labeled as an affirmation in opposition signed by the plaintiff.

The defendants submitted a document labeled as an affirmation in reply also signed by Bosek.

LAW AND APPLICATION

The purported affirmations of Bosek and of the plaintiff did not comply with CPLR 2106 as amended (CPLR 2106; *see* Patrick M. Connors, *The Blockbuster Amendment to CPLR 2196 Permitting Any Person to Submit an Affirmation in Lieu of an Affidavit*, 98 St. John's L. Rev. 375, 381 [2024] [analyzing the amended CPLR 2106]). It lacks the language prescribed in the statute, or language that is in substantially the following form:

“I affirm this ___ day of _____, _____, under the penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the foregoing is true, and I understand that this document may be filed in an action or proceeding in a court of law.”

³ Plaintiff's opposition filed on November 23, 2025 will be considered as opposition for motion sequence number three.

The affirmation by counsel Bosek and by the plaintiff were insufficient and did not encompass the requisite language or language substantially reflective of that required in the statute. Here, “[t]here is no acknowledgement of the laws of New York or the possible penalties of fine or imprisonment if the statements made therein [were] not true” (R.F. v L.K., 82 Misc 3d 1221[A], 2024 NY Slip Op 50358[U], [Sup Ct, Westchester County 2024]). Therefore, the “[a]ffirmation [wa]s not in admissible form and c[ould] not be relied upon as proof of facts set forth therein” (id., citing Graham Ct. Owners Corp. v Memminger, 81 Misc 3d 1248[A], *2 n 5 [Civ Ct, NY County 2024]; see also Matter of Grandsard v Hutchison, 2024 WL 1957086, *1 [Sup Ct, NY County 2024], affd 227 AD3d 491, 491 [1st Dept 2024]). Consequently, any reference in the defective affirmation to documents filed with other motion papers or under the NYSCEF system were not considered in assessing of the motion.

Furthermore, the document labeled as an affidavit in support signed by Bosek was not an affidavit. It contained no jurat, stamp of a notary public, or any other indication that the statement was sworn (*Lillo-Arouca v Masoud*, 163 AD3d 646, 647 [2d Dept 2018]).

In sum, there was no sworn allegations of fact in support of the relief requested in the instant motion.

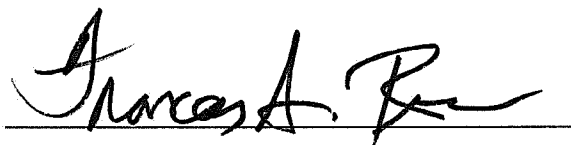
CONCLUSION

The motion by defendants Johnnie Sheehan, Christy Sheehan, Barchord, and Barchord, Inc. for an order striking the plaintiff’s supplemental verified bill of Particulars, dated May 2, 2025 as to the claims and allegations set forth in *John Aretakis v. Johnnie Sheehan, et al*, index no. 635/2022 is denied

The motion by defendants Johnnie Sheehan, Christy Sheehan, Barchord, and Barchord, Inc. for an order precluding plaintiff from introducing any evidence or testimony as to the theories of liability set forth in John Aretakis v. Johnnie Sheehan is denied.

The foregoing constitutes the decision and order of this Court.

ENTER:

A handwritten signature in black ink, appearing to read "Francois A. Rivera", is written over a horizontal line.

J.S.C.

HON. FRANCOIS A. RIVERA