

4510 Clarendon Rd. Holdings LLC v Thomas
2026 NY Slip Op 31966(U)
April 9, 2026
Civil Court of the City of New York, Kings County
Docket Number: Index No. LT-314859-25/KI
Judge: Shantonu J. Basu
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CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF KINGS: HOUSING PART R

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4510 CLARENDON ROAD HOLDINGS LLC

Petitioner,

Index No.: LT-314859-25/KI

-against-

DECISION/ORDER

VERLON THOMAS et al.

Respondents.

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Present: Hon. Shantonu J. Basu, JHC

For the reasons stated on the record, the court dismisses the instant proceeding without prejudice (CPLR 409[b]).

When this case started Petitioner had not complied with the publication requirement set forth by law (Limited Liability Company Law 206). Petitioner today has requested a two-month adjournment so that Petitioner’s company could comply with the law. When sitting in the resolution part, the undersigned has allowed brief adjournments so that LLCs could comply with the law.

However, this is the trial part. This proceeding was scheduled for trial. Therefore, the court must deny Petitioner’s attorney’s application and dismiss this proceeding without prejudice.

The controlling statute is Limited Liability Company Law § 206, which reads:

Within one hundred twenty days after the effectiveness of the initial articles of organization [. . .] a copy of the same or a notice containing the substance thereof shall be published once in each week for six successive weeks, in two newspapers of the county in which the office of the limited liability company is located, one newspaper to be printed weekly and one newspaper to be printed daily, to be designated by the county clerk.

Appellate authority prescribes severe penalties for failure to comply with this law. For example in *Small Step Day Care, LLC v Broadway Bushwick Builders, L.P.* the Appellate Division held that “[f]ailure to comply with these requirements precludes a limited liability company from maintaining any action or special proceeding in New York. [. . .] [S]ince the plaintiff failed to comply with the publication requirements of

Limited Liability Company Law § 206, it is precluded from bringing this action.” (*Small Step Day Care, LLC v. Broadway Bushwick Builders, L.P.*, 137 AD3d 1102, 1103 [2d Dept 2016]; *see also Sewer Relief LLC v. S&H Hotel Mgt., LLC*, 2023 WL 3849887 [Sup Ct, Kings County 2023]).

Some courts have found that there are no exceptions to this rule (*Three Egg Studios LLC v. FJH Realty Inc*, 2019 NY Slip Op 30805[U] [Sup Ct, Kings County 2016] [ruling that “since the plaintiff failed to comply with the publication requirements of Limited Liability Company Law § 206, it is precluded from bringing this action”]; *One Stone Lending LLC v. Alta Operations, LLC*, 2020 NY Slip Op. 30722[U], 3-4 [Sup Ct, Kings County 2020]; *Mepn Gen. Contr. LLC v. Joseph*, 2022 WL 1439676, 501693/2022, [Sup Ct, Kings County 2022] [“The LLC’s Certificate of Status shows no publication. Petitioner failed to upload evidence of the LLC’s publication notwithstanding its contentions otherwise in its Affirmation in Opposition.”]; *109 Equities LLC v. Smit*, 2022 WL 17589545, L&T 73592/2019 [Civ Ct, Queens County 2022]; *Hull Unique Equities LLC v Boone*, 83 Misc 3d 129[A] [Civ Ct, Kings County 2024]).

However, even after *Small Step Day Care* several other courts have carved out exceptions that allow a cure by later compliance with Limited Liability Company Law § 206 (*101 Sixth Assoc. LLC v Cent. Entertainment Group, Inc.*, 2023 WL 1765335, 654926/2022, [Sup Ct, NY County 2023]; *King Chick LLC v Org. for Defense of Four Freedoms for Ukraine, Inc.*, 2022 WL 17733089, 850122/2022 [Sup Ct, NY County 2022]) [“A suspension that is capable of being “annulled” supports that non-compliance with LLCL § 206[a] is curable and not jurisdictional in nature.”)].

Therefore, there may be sufficient caselaw to find that an LLC can cure its failure to comply with the publication rule. But the cure would have to happen before a trial.

While this court always prefers to resolve matters on the merits rather than on technicalities, given the trial posture of this case, the court cannot grant Petitioner’s attorney’s request.

For the reasons stated above, on the court’s own motion, the instant proceeding is dismissed without prejudice (CPLR 409[b]). This constitutes the decision/order of the court.

Dated: April 9, 2026
Brooklyn, NY



Hon. Shantonu J. Basu
Housing Court Judge