

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
FIRST DEPARTMENT

Larue v. 1201-31 Lafayette Ground Gowner LLC

2025 NY Slip Op 06546 (N.Y. Ct. App. 2025) · No. Index No. 812053/23; Appeal No. 5237; Case No. 2025-04541 · Decided November 25, 2025

SUMMARY

The Appellate Division, First Department reversed an order denying the plaintiff's motion for discovery sanctions under CPLR 3126(c). The court held that defendants willfully and contumaciously failed to disclose surveillance video of the plaintiff's accident and directed that defendants be precluded from introducing the video.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, First Department
WRITING FOR THE COURT	Webber, J.P.; Kennedy, J.; González, J.; Higgitt, J.; Michael, J.
JURISDICTION	New York Supreme Court, Appellate Division, First Department
DECIDED	November 25, 2025
DOCKET	Index No. 812053/23; Appeal No. 5237; Case No. 2025-04541
DISPOSITION	reversed
PROCEDURAL POSTURE	Plaintiff appealed from an order denying her motion under CPLR 3126(c) to strike defendants' answer or preclude defendants from introducing surveillance video of her accident.
STANDARD OF REVIEW	Abuse of discretion; the court reviewed whether Supreme Court improvidently exercised its discretion in denying discovery sanctions.
PRECEDENTIAL VALUE	Published New York Appellate Division opinion
PARTIES	Adriene Larue v. 1201-31 Lafayette Ground Gowner LLC, et al.

TOPICS

- discovery dispute
- sanctions
- evidence
- appellate procedure
- civil procedure

PRACTICE AREAS

- civil procedure
- discovery sanctions
- personal injury litigation
- evidence

QUESTIONS PRESENTED

1. Whether defendants' failure to disclose surveillance video despite repeated demands and denials was willful and contumacious conduct warranting discovery sanctions.
2. Whether plaintiff was prejudiced by the late production of the surveillance video.
3. Whether preclusion of the surveillance video was an appropriate sanction under CPLR 3126(c).

HOLDINGS

1. Defendants acted willfully and contumaciously by failing to produce the surveillance video in response to repeated demands and by repeatedly denying its existence.
2. Plaintiff was prejudiced by defendants' late production of the surveillance video because the video was disclosed only after plaintiff's deposition had taken place.
3. The appropriate sanction was preclusion of defendants' introduction of the surveillance video, rather than the more severe sanction of striking defendants' answer.

KEY QUOTATIONS

*“Plaintiff demonstrated that defendants acted willfully and contumaciously when they failed to turn over video footage of plaintiff's accident.” (*1)*

*“Given the totality of the circumstances, Supreme Court should have granted the lesser sanction of preclusion.” (*1)*

FACTUAL BACKGROUND

Defendants possessed surveillance video of plaintiff's accident but failed to produce it despite repeated explicit demands and repeatedly denied that any such video existed. Defendants revealed the video's existence only after plaintiff's deposition and during the deposition of defendants' building manager. The delayed disclosure prejudiced plaintiff because her deposition had already occurred.

PROCEDURAL HISTORY

Supreme Court, Bronx County, denied plaintiff's discovery-sanctions motion. The Appellate Division unanimously reversed and granted the lesser sanction of precluding defendants from introducing the surveillance video.

DISPOSITION

reversed

CASES CITED

- Jones v. Green, 34 A.D.3d 260, 261 (1st Dep't 2006)
- Polakoff v. NYU Hosps. Ctr., 176 A.D.3d 613, 614 (1st Dep't 2019)
- Tai Tran v. New Rochelle Hosp. Med. Ctr., 99 N.Y.2d 383, 389-390 (2003)

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