

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

Larue v. 1201-31 Lafayette Ground Gownner 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 Gownner 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)

OPINION

PER CURIAM.

Larue v 1201-31 Lafayette Ground Gownner LLC (2025 NY Slip Op 06546) Larue v 1201-31 Lafayette Ground Gownner LLC 2025 NY Slip Op 06546 Decided on November 25, 2025 Appellate Division, First Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This opinion is uncorrected and subject to revision before publication in the Official Reports.

Decided and Entered: November 25, 2025 Before: Webber, J.P. SEQ CHAPTER \h \r 1, Kennedy, González, Higgitt, Michael, JJ. Index No. 812053/23|Appeal No. 5237|Case No. 2025-04541|[*1]Adriene Larue, Appellant, v 1201-31 Lafayette Ground Gownner LLC et al., Respondents. Kenneth J. Gorman, New York for appellant. Law Offices of Shahab Katirachi, New York (Crystal E. Nagy of counsel) for respondents.

Order, Supreme Court, Bronx County (Alison Y. Tuitt, J.), entered on or about May 9, 2025, which denied plaintiff's motion pursuant to CPLR 3126 (c) to strike defendants' answer or preclude defendants from introducing surveillance video of plaintiff's accident, unanimously reversed, on the law, without costs, and the motion to preclude defendants' from introducing the surveillance video of plaintiff's accident granted.

Supreme Court improvidently exercised its discretion in denying plaintiff's motion seeking discovery sanctions. Plaintiff demonstrated that defendants acted willfully and contumaciously when they failed to turn over video footage of plaintiff's accident (see Jones v Green, 34 AD3d 260, 261 [1st Dept 2006]). Defendants failed to produce the video in response to repeated explicit demands and repeatedly denied the existence of any video of plaintiff's accident.

It was not until after plaintiff's deposition on May 20, 2024 and during the June 27, 2024 deposition of defendants' building manager that defendants revealed the existence of the video. While only six months elapsed from entry of the compliance order to the belated production of the video, it cannot be said that plaintiff was not prejudiced by the late production.

Defendants should be sanctioned for their dilatory behavior in producing the surveillance video after plaintiff's deposition had already taken place (see Polakoff v NYU Hosps. Ctr., 176 AD3d 613, 614 [1st Dept 2019] [sanctioning the plaintiff who failed to produce audio and video recordings until after their depositions and not until the eve of the continuation of defendant's deposition, noting defendants were prejudiced by "surprise tactic" occurring after parties were deposed]).

Given the totality of the circumstances, Supreme Court should have granted the lesser sanction of preclusion (see Tai Tran v New Rochelle Hosp. Med. Ctr., 99 NY2d 383, 389-390 [2003]). THIS

CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT. ENTERED: November 25, 2025

PER CURIAM.

Larue v 1201-31 Lafayette Ground Gowner LLC (2025 NY Slip Op 06546) Larue v 1201-31 Lafayette Ground Gowner LLC 2025 NY Slip Op 06546 Decided on November 25, 2025 Appellate Division, First Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This opinion is uncorrected and subject to revision before publication in the Official Reports.

Decided and Entered: November 25, 2025 Before: Webber, J.P. SEQ CHAPTER \h \r 1, Kennedy, González, Higgitt, Michael, JJ. Index No. 812053/23|Appeal No. 5237|Case No. 2025-04541|[*1]Adriene Larue, Appellant, v 1201-31 Lafayette Ground Gowner LLC et al., Respondents. Kenneth J. Gorman, New York for appellant. Law Offices of Shahab Katirachi, New York (Crystal E. Nagy of counsel) for respondents.

Order, Supreme Court, Bronx County (Alison Y. Tuitt, J.), entered on or about May 9, 2025, which denied plaintiff's motion pursuant to CPLR 3126 (c) to strike defendants' answer or preclude defendants from introducing surveillance video of plaintiff's accident, unanimously reversed, on the law, without costs, and the motion to preclude defendants' from introducing the surveillance video of plaintiff's accident granted.

Supreme Court improvidently exercised its discretion in denying plaintiff's motion seeking discovery sanctions. Plaintiff demonstrated that defendants acted willfully and contumaciously when they failed to turn over video footage of plaintiff's accident (see Jones v Green, 34 AD3d 260, 261 [1st Dept 2006]). Defendants failed to produce the video in response to repeated explicit demands and repeatedly denied the existence of any video of plaintiff's accident.

It was not until after plaintiff's deposition on May 20, 2024 and during the June 27, 2024 deposition of defendants' building manager that defendants revealed the existence of the video. While only six months elapsed from entry of the compliance order to the belated production of the video, it cannot be said that plaintiff was not prejudiced by the late production.

Defendants should be sanctioned for their dilatory behavior in producing the surveillance video after plaintiff's deposition had already taken place (see Polakoff v NYU Hosps. Ctr., 176 AD3d 613, 614 [1st Dept 2019] [sanctioning the plaintiff who failed to produce audio and video recordings until after their depositions and not until the eve of the continuation of defendant's deposition, noting defendants were prejudiced by "surprise tactic" occurring after parties were deposed]).

Given the totality of the circumstances, Supreme Court should have granted the lesser sanction of preclusion (see *Tai Tran v New Rochelle Hosp. Med. Ctr.*, 99 NY2d 383, 389-390 [2003]). THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT. ENTERED: November 25, 2025

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/new-york-supreme-court-appellate-division-first-department-supreme-court-of-the-state-of-new-york-ap/2025/larue-v-1201-31-lafayette-ground-gowner-llc-03vr1czu>