

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
SECOND JUDICIAL DEPARTMENT

Dominguez v. New York City Hous. Auth.

2026 NY Slip Op 03777 (N.Y. Ct. App. 2026) · No. 2024-07761 · Decided June 17, 2026

SUMMARY

The Appellate Division, Second Department reversed an order imposing a CPLR 3126 discovery sanction against the New York City Housing Authority in a personal-injury action. The court held that the plaintiff failed to establish that the defendant's incomplete discovery responses and failure to appear for a deposition were willful, deliberate, and contumacious, and therefore denied the motion to preclude the defendant from offering evidence at trial.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Francesca E. Connolly, J.P.; Valerie Brathwaite Nelson, J.; Barry E. Warhit, J.; Elena Goldberg Velazquez, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
DECIDED	June 17, 2026
DOCKET	2024-07761
DISPOSITION	reversed
PROCEDURAL POSTURE	The defendant appealed from an order granting the plaintiff's motion under CPLR 3126 to preclude the defendant from offering evidence at trial, to the extent of barring the defendant from testifying at a deposition or submitting an affidavit concerning liability.
STANDARD OF REVIEW	The nature and degree of a CPLR 3126 discovery sanction are generally reviewed for abuse of discretion, although preclusion requires a clear showing that the noncompliance was willful, deliberate, and contumacious.
PRECEDENTIAL VALUE	published
PARTIES	New York City Housing Authority v. Carolina Dominguez

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QUESTIONS PRESENTED

1. Whether the defendant's alleged discovery deficiencies and failure to appear for a court-ordered deposition demonstrated the willful, deliberate, and contumacious noncompliance required to impose preclusion under CPLR 3126.
2. Whether Supreme Court properly exercised its discretion in precluding the defendant from testifying at a deposition or submitting an affidavit on liability.

HOLDINGS

1. Preclusion under CPLR 3126 requires a clear showing that the offending party's failure to comply with disclosure obligations was willful, deliberate, and contumacious.
2. The record did not support an inference that the defendant's failure to appear for its deposition or its discovery responses were willful and contumacious; therefore, the plaintiff's CPLR 3126 motion to preclude the defendant from offering evidence at trial should have been denied.

KEY QUOTATIONS

“To invoke the drastic remedy of preclusion, the court must determine that the offending party's lack of cooperation with disclosure was willful, deliberate, and contumacious” (at *1-*2)

FACTUAL BACKGROUND

Carolina Dominguez alleged that she sustained personal injuries when she tripped and fell at the entrance of a building owned by the New York City Housing Authority. The plaintiff claimed that the Authority failed to provide complete discovery responses and failed to appear for a deposition by a court-ordered date. The record showed substantial compliance with the discovery demands, no identified specific deficiency, delays by both parties in completing discovery, and a changed description of the object involved in the fall that led the Authority to commence a third-party action against the construction contractor.

PROCEDURAL HISTORY

The plaintiff commenced a personal-injury action after allegedly tripping and falling at the entrance of a building owned by the defendant. After discovery, the plaintiff sought sanctions under CPLR 3126 based on alleged incomplete discovery responses and the defendant's failure to appear for a court-ordered deposition. Supreme Court, Kings County, imposed the limited preclusion sanction. The Appellate Division reversed insofar as appealed from and denied the plaintiff's CPLR 3126 preclusion request.

DISPOSITION

reversed

CASES CITED

- Gibson v. Delemos, 231 A.D.3d 710, 711-712 (2d Dep't 2024)
- Gelin v. New York City Tr. Auth., 189 A.D.3d 789, 792 (2d Dep't 2020)
- Aha Sales, Inc. v. Creative Bath Prods., Inc., 110 A.D.3d 1019, 1019 (2d Dep't 2013)
- Decius v. 1362 Ocean, LLC, 222 A.D.3d 617, 618 (2d Dep't 2023)
- Holand v. Cascino, 122 A.D.3d 575, 576 (2d Dep't 2014)
- Walter B. Melvin, Architects, LLC v. 24 Aqueduct Lane Condominium, 51 A.D.3d 784, 785 (2d Dep't 2008)
- Henry v. Datson, 140 A.D.3d 1120, 1122 (2d Dep't 2016)
- Kanic Realty Assoc., Inc. v. Suffolk County Water Auth., 130 A.D.3d 876, 877 (2d Dep't 2015)

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