

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

Buff v. Janover LLC

Buff, 2026 NY Slip Op 00007 (Supreme Court of the State of New York Appellate Division First Department 2026) · No. Index No. 154780/20; Appeal Nos. 5517-5518; Case Nos. 2024-00325, 2024-00529 · Decided January 6, 2026

SUMMARY

The Appellate Division, First Department, affirmed an order denying Carolyn Buff’s motion to quash nonparty subpoenas and for a protective order. The court dismissed as moot an appeal from an order compelling discovery because Buff had produced documents in her possession and provided the required affidavit regarding other requested documents.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, First Department
WRITING FOR THE COURT	Renwick, P.J.; Manzanet-Daniels, J.; Gesmer, J.; Higgitt, J.; Michael, J.
JURISDICTION	New York Appellate Division, First Department
DECIDED	January 6, 2026
DOCKET	Index No. 154780/20; Appeal Nos. 5517-5518; Case Nos. 2024-00325, 2024-00529
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiff appealed from an order denying her motion to quash subpoenas and for a protective order, and from an order granting Janover LLC's motion to compel discovery and directing plaintiff to produce the requested documents or serve a Jackson affidavit.
STANDARD OF REVIEW	Whether Supreme Court providently exercised its discretion in ruling on disclosure, subpoenas, and a protective order; mootness as to the discovery-compulsion order.
PRECEDENTIAL VALUE	published
PARTIES	Carolyn Buff v. Janover LLC, et al.

TOPICS

discovery dispute

civil procedure

mootness

appellate procedure

tax

PRACTICE AREAS

civil procedure

commercial litigation

tax

QUESTIONS PRESENTED

1. Whether plaintiff established that the nonparty subpoenas should be quashed because discovery was futile or the requested information was irrelevant.
2. Whether plaintiff was entitled to a protective order barring Janover from using disclosure devices.
3. Whether the appeal from the order compelling discovery was moot after plaintiff produced documents in her possession and provided a Jackson affidavit for other requested documents.

HOLDINGS

1. The subpoenas were properly upheld because plaintiff failed to show that their futility was inevitable or obvious or that the information sought was utterly irrelevant to a proper inquiry.
2. Plaintiff was not entitled to a protective order because Janover served its subpoenas and document requests within the time allowed by court order, and the requests were clearly identified, limited in scope, not burdensome or expensive to produce, and material and necessary to the claims and defenses.
3. The appeal from the order compelling discovery was moot because plaintiff produced the documents in her possession and provided the required affidavit concerning other requested documents.

KEY QUOTATIONS

“the futility of the process to uncover anything legitimate is inevitable or obvious . . . or . . . the information sought is utterly irrelevant to any proper inquiry” (2026 NY Slip Op 00007, at *1)

“imposes no requirement that the subpoenaing party demonstrate that it cannot obtain the requested disclosure from any other source” (2026 NY Slip Op 00007, at *1)

“The words ‘material and necessary’ must be interpreted liberally to require disclosure, upon request, of any facts bearing upon the controversy which will assist preparation for trial by sharpening the issues and reducing delay and prolixity” (2026 NY Slip Op 00007, at *1)

FACTUAL BACKGROUND

Janover served subpoenas on the IRS and the U.S. Attorney's Office seeking information relevant to the government's investigation of plaintiff's tax returns from 2006 onward. Janover also served document requests within the time permitted by a prior court order. Plaintiff sought to quash the subpoenas and obtain a protective order barring Janover from using disclosure devices, while Janover moved to compel discovery.

PROCEDURAL HISTORY

Supreme Court, New York County, denied plaintiff's motion to quash nonparty subpoenas and for a protective order. The court also granted Janover LLC's motion to compel discovery. The Appellate Division unanimously affirmed the order denying plaintiff's motion and dismissed the appeal from the discovery-compulsion order as moot because plaintiff produced documents in her possession and provided the required affidavit regarding other requested documents.

DISPOSITION

affirmed

CASES CITED

- Matter of Kapon v. Koch, 23 NY3d 32, 38 (2014)
- Capital Sources v. Vital Signals, 191 AD2d 193, 194 (1st Dep't 1993)
- City of New York v. Maul, 118 AD3d 401, 402-403 (1st Dep't 2014)
- Allen v. Crowell-Collier Publ. Co., 21 NY2d 403, 406 (1968)
- Matter of Hearst Corp. v. Clyne, 50 NY2d 707, 714 (1980)
- Funti v. Andrews, 238 AD3d 666, 666 (1st Dep't 2025)
- Orange County Publs., Div. of Ottaway Newspapers, Inc. v. Metropolitan Transp. Auth., 22 AD3d 290, 291 (1st Dep't 2005)

OPINION

PER CURIAM.

Buff v Janover LLC (2026 NY Slip Op 00007) Buff v Janover LLC 2026 NY Slip Op 00007
Decided on January 06, 2026 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: January 06, 2026 Before:
Renwick, P.J., Manzanet-Daniels, Gesmer, Higgitt, Michael, JJ. Index No. 154780/20|Appeal No.
5517-5518|Case No. 2024-00325, 2024-00529| [*1]Carolyn Buff, Appellant, v Janover LLC, et al.,
Respondents.

Carolyn Buff, appellant pro se. Fox Rothschild LLP, New York (Rory G. Greebel of counsel), for
respondents. Order, Supreme Court, New York County (Paul A. Goetz, J.), entered on or about
December 28, 2023, which denied plaintiff's motion to quash subpoenas and for a protective order,
unanimously affirmed. Appeal from order, same court, Justice, and date, which granted the motion
of defendant Janover LLC to compel discovery and directed plaintiff to provide the documents
requested or serve a Jackson affidavit, unanimously dismissed, without costs, as moot.

Supreme Court providently denied plaintiff's motion to the extent it sought to quash nonparty
subpoenas, as plaintiff failed to show that "the futility of the process to uncover anything

legitimate is inevitable or obvious... or... the information sought is utterly irrelevant to any proper inquiry" (*Matter of Kapon v Koch*, 23 NY3d 32, 38 [2014] [internal quotation marks omitted]).

Indeed, the information sought by Janover from the IRS and the US Attorney's Office is highly relevant to the government's investigation of plaintiff's tax returns from 2006 onwards. Moreover, contrary to plaintiff's argument that Janover can seek documents from online sources and that she had previously disclosed her tax file, CPLR 3101(a)(4), authorizing nonparty disclosure, "imposes no requirement that the subpoenaing party demonstrate that it cannot obtain the requested disclosure from any other source" (*id.*).

Supreme Court also providently denied plaintiff's motion to the extent it sought a protective order barring Janover from utilizing any disclosure device. Janover served its subpoenas and document requests within the time allowed by a prior court order, which also extended the deadline to file a note of issue. Additionally, each subpoena and document request "sought disclosure which was clearly identified, limited in scope, not burdensome or expensive to produce, and which [was] material and necessary" to the claims and defenses (*Capital Sources v Vital Signals*, 191 AD2d 193, 194 [1st Dept 1993] [internal quotation marks omitted]; see *City of New York v Maul*, 118 AD3d 401, 402-403 [1st Dept 2014]).

"The words 'material and necessary' must be interpreted liberally to require disclosure, upon request, of any facts bearing upon the controversy which will assist preparation for trial by sharpening the issues and reducing delay and prolixity" (*Matter of Kapon*, 23 NY3d at 38, quoting *Allen v Crowell-Collier Publ. Co.*, 21 NY2d 403, 406 [1968]).

The order granting Janover's motion to compel is moot, as plaintiff provided documents in her possession and proffered the required affidavit as to other documents requested (see *Matter of Hearst Corp. v Clyne*, 50 NY2d 707, 714 [1980]; *Funti v Andrews*, 238 AD3d 666, 666 [1st Dept 2025]; *Orange County Publs., Div. of Ottaway Newspapers, Inc. v Metropolitan Transp.*

Auth., 22 AD3d 290, 291 [1st Dept 2005]). We have considered plaintiff's remaining contentions and find them unavailing. THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT. ENTERED: January 6, 2026

PER CURIAM.

Buff v Janover LLC (2026 NY Slip Op 00007) *Buff v Janover LLC* 2026 NY Slip Op 00007
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Carolyn Buff, appellant pro se. Fox Rothschild LLP, New York (Rory G. Greebel of counsel), for respondents. Order, Supreme Court, New York County (Paul A. Goetz, J.), entered on or about December 28, 2023, which denied plaintiff's motion to quash subpoenas and for a protective order, unanimously affirmed. Appeal from order, same court, Justice, and date, which granted the motion of defendant Janover LLC to compel discovery and directed plaintiff to provide the documents requested or serve a Jackson affidavit, unanimously dismissed, without costs, as moot.

Supreme Court providently denied plaintiff's motion to the extent it sought to quash nonparty subpoenas, as plaintiff failed to show that "the futility of the process to uncover anything legitimate is inevitable or obvious... or... the information sought is utterly irrelevant to any proper inquiry" (*Matter of Kapon v Koch*, 23 NY3d 32, 38 [2014] [internal quotation marks omitted]).

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Supreme Court also providently denied plaintiff's motion to the extent it sought a protective order barring Janover from utilizing any disclosure device. Janover served its subpoenas and document requests within the time allowed by a prior court order, which also extended the deadline to file a note of issue. Additionally, each subpoena and document request "sought disclosure which was clearly identified, limited in scope, not burdensome or expensive to produce, and which [was] material and necessary" to the claims and defenses (*Capital Sources v Vital Signals*, 191 AD2d 193, 194 [1st Dept 1993] [internal quotation marks omitted]; see *City of New York v Maul*, 118 AD3d 401, 402-403 [1st Dept 2014]).

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The order granting Janover's motion to compel is moot, as plaintiff provided documents in her possession and proffered the required affidavit as to other documents requested (see *Matter of Hearst Corp. v Clyne*, 50 NY2d 707, 714 [1980]; *Funti v Andrews*, 238 AD3d 666, 666 [1st Dept 2025]; *Orange County Publs., Div. of Ottaway Newspapers, Inc. v Metropolitan Transp.*

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