

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

Aberbach-Marolda v. Cherner

2026 NY Slip Op 02086 (Supreme Court of the State of New York Appellate Division Second Department 2026)
· No. 2019-01115 · Decided April 8, 2026

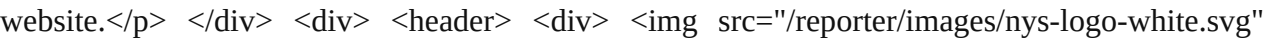
OPINION

Aberbach-Marolda v. Cherner 2026 NY Slip Op 02086

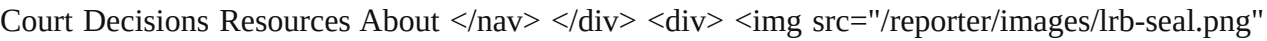
PER CURIAM.

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2026 NY Slip Op 02086

April 8, 2026

Appellate Division, Second Department

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Susanne Aberbach-Marolda, etc., respondent, et al., plaintiff,
v
Daniel Cherner, appellant.

Supreme Court of the State of New York, Appellate Division, Second Judicial Department

Decided on April 8, 2026

2019-01115, (Index No. 58495/16)

Mark C. Dillon, J.P.

Betsy Barros

Paul Wooten

William G. Ford, JJ.

Pollack, Pollack, Isaac & DeCicco, LLP, New York, NY (Brian J. Isaac of counsel), for appellant.

Susanne Aberbach-Marolda, Pleasantville, NY, respondent pro se.

[*1]

DECISION & ORDER

In an action, inter alia, to recover damages for breach of contract, the defendant appeals from an order of the Supreme Court, Westchester County (Joan B. Lefkowitz, J.), dated December 17, 2018. The order, insofar as appealed from, denied those branches of the defendant's motion which were to compel the plaintiff Susanne-Aberbach Marolda to provide authorizations for Internet providers to release certain emails, to appear for a new deposition and to pay the fees and costs associated with her deposition, to provide a sworn statement detailing all claims made on her malpractice insurance policy over a certain period of time, and to produce certain telephone records. Justice Ford has been substituted for former Justice Zayas (*see* 22 NYCRR 1250.1[b]).

ORDERED that the appeal is dismissed, without costs or disbursements.

The appeal from the order must be dismissed

because the portion of the order which, in effect, seeks rulings on an examination before trial is not appealable as of right (*see Cruz v Roman Catholic Church for Most Holy Trinity*, 222 AD2d 395), and the right of direct appeal from the remaining portions of the order terminated with the entry of the judgment in the action (*see Matter of Aho*, 39 NY2d 241, 248). The issues raised on the appeal from the order are brought up for review and have been considered on the appeal from the judgment (*see* CPLR 5501[a][1]; *Matter of Aho*, 39 NY2d at 248; *Aberbach-Marolda v Cherner*, ___ AD3d ___ [Appellate Division Docket No. 2019-09826; decided herewith]).

DILLON, J.P., BARROS, WOOTEN and FORD, JJ., concur.

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Darrell M. Joseph

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