

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

Moshe Meisels, et al. v. Michael I. Bernstein, etc., et al.

Meisels, 2025 NY Slip Op 06855 (Supreme Court of the State of New York Appellate Division Second Judicial Department 2025) · No. 2023-11711 · Decided December 10, 2025

SUMMARY

The Appellate Division, Second Department modified an order denying summary judgment to Michael I. Bernstein and Michael I. Bernstein, P.A., holding that the plaintiffs lacked standing to pursue fraud and aiding-and-abetting-fraud claims. The court concluded that the plaintiffs failed to raise a triable issue concerning ownership of the invested funds and that Moshe Meisels was judicially estopped from asserting standing based on prior representations. The court otherwise affirmed denial of the defendants’ requests to strike the complaint and impose sanctions for fraud on the court.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Mark C. Dillon, J.P.; Barry E. Warhit, J.; Lourdes M. Ventura, J.; James P. McCormack, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
DECIDED	December 10, 2025
DOCKET	2023-11711
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Defendants appealed from an order denying their motion for summary judgment dismissing fraud and aiding-and-abetting-fraud claims, their motion under CPLR 3126 to strike the complaint, and their motion under 22 NYCRR 130-1.1 for sanctions.
STANDARD OF REVIEW	On summary judgment, the moving defendant bears the prima facie burden of establishing the plaintiff's lack of standing; the plaintiff must then raise a triable issue of fact. Fraud on the court must be established by clear and convincing evidence.
PRECEDENTIAL VALUE	Published

PARTIES

Michael I. Bernstein, Michael I. Bernstein, P.A. v. Moshe Meisels, et al.

TOPICS

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QUESTIONS PRESENTED

1. Whether the defendants established prima facie that the plaintiffs lacked standing to assert fraud and aiding-and-abetting-fraud claims.
2. Whether the plaintiffs raised a triable issue of fact regarding standing, including through judicial estoppel, agency principles, or an assignment of Rightmatch's interests.
3. Whether the defendants established by clear and convincing evidence that the plaintiffs committed fraud on the court warranting striking the complaint or sanctions.

HOLDINGS

1. The defendants established prima facie that the plaintiffs lacked standing because the transferred funds belonged to Rightmatch and the plaintiffs did not suffer a concrete and particularized injury. The plaintiffs failed to raise a triable issue of fact, so summary judgment dismissing the first and second causes of action against the defendants was required.
2. The defendants were not entitled to have the complaint stricken or to obtain sanctions because they failed to establish by clear and convincing evidence that Meisels knowingly engaged in deceitful conduct that undermined the integrity of the judicial process.

KEY QUOTATIONS

“The injury-in-fact requirement [of standing] necessitates a showing that the party has an actual legal stake in the matter being adjudicated and has suffered a cognizable harm that is not tenuous, ephemeral, or conjectural but is sufficiently concrete and particularized to warrant judicial intervention” (at 2)

“in order to demonstrate fraud on the court, the nonoffending party must establish by clear and convincing evidence that the offending party has acted knowingly in an attempt to hinder the fact finder's fair adjudication of the case and his [or her] adversary's defense of the action” (at 3)

FACTUAL BACKGROUND

In 2007, funds were transferred by Rightmatch Ltd. to Eli Weinstein's attorney for investments in real property, including Riverside Place in Miami, Florida. The plaintiffs alleged that the defendants helped Weinstein induce Moshe Meisels to invest in Riverside Place under false pretenses. Records and prior representations indicated

that the funds belonged to Rightmatch rather than to the plaintiffs, and Meisels had previously represented in London bankruptcy proceedings that the investments were Rightmatch's, not his personal investments.

PROCEDURAL HISTORY

The plaintiffs commenced the action in March 2010 alleging, among other things, fraud and aiding and abetting fraud arising from investments in Florida real property. The Supreme Court, Kings County, denied the defendants' relevant motion branches in an order dated August 17, 2023. The Appellate Division modified the order by granting summary judgment dismissing the first and second causes of action against the defendants, while affirming the denial of the motions to strike the complaint and impose sanctions.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The order was modified by deleting the provision denying summary judgment on the first and second causes of action against the defendants and substituting a provision granting that relief; the order was otherwise affirmed insofar as appealed from.

CASES CITED

- Cenlar FSB v Lanzbom, 168 AD3d 670, 671
- Citibank, N.A. v Conti-Scheurer, 172 AD3d 17, 22
- Matter of Festa v Town of Oyster Bay, 210 AD3d 678, 679-680
- Matter of Mental Hygiene Legal Serv. v Daniels, 33 NY3d 44, 50
- Capital One, N.A. v Trubitsky, 206 AD3d 608, 610
- Cussick v R.L. Baxter Bldg. Corp., 228 AD3d 614, 616
- Davis v Citibank, N.A., 116 AD3d 819, 821
- Horn v Toback, 44 Misc 3d 42, 45
- Airlines Reporting Corp. v S & N Travel, 238 AD2d 292, 293
- College Mgt. Co. v Belcher Oil Co. of N.Y., 159 AD2d 339, 341
- Young v 101 Old Mamaroneck Rd. Owners Corp., 211 AD3d 771, 774
- Bhim v Platz, 207 AD3d 511, 513
- CDR Créances S.A.S. v Cohen, 23 NY3d 307, 318, 320-321
- Sterling Trust Ltd. v Stern, 177 AD3d 928, 929