

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

Lee v. Nejat

2025 N.Y. Slip Op. 06967 (N.Y. Ct. App. 2025) · No. Index No. 800296/11; Appeal No. 5394; Case No. 2024-01665 · Decided December 16, 2025

SUMMARY

The Appellate Division, First Department unanimously affirmed an order granting plaintiff’s former counsel a charging lien and a retaining lien. The court held that plaintiff failed to make a prima facie showing that counsel was discharged for cause, that no hearing was required, and that the record did not support plaintiff’s claims concerning inability to pay the retaining lien or obtain medical records.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, First Department
WRITING FOR THE COURT	Moulton, J.P.; Kennedy, J.; Mendez, J.; Michael, J.; Chan, J.
JURISDICTION	New York Supreme Court, Appellate Division, First Department
DECIDED	December 16, 2025
DOCKET	Index No. 800296/11; Appeal No. 5394; Case No. 2024-01665
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiff appealed from an order granting her former counsel a charging lien and a retaining lien.
STANDARD OF REVIEW	The court reviewed whether Supreme Court properly summarily granted charging and retaining liens and whether plaintiff made a prima facie showing requiring a hearing.
PRECEDENTIAL VALUE	published
PARTIES	Susan S. Lee v. Edelman, Krasin & Jaye, PLLC

TOPICS

- attorney fees
- equitable lien
- remedies
- appellate procedure
- civil procedure

PRACTICE AREAS

- attorney liens
- legal ethics and professional responsibility
- civil procedure
- appellate procedure
- remedies

QUESTIONS PRESENTED

1. Whether Supreme Court properly granted plaintiff's former counsel a charging lien and a retaining lien without a hearing.
2. Whether plaintiff made a prima facie showing that her former counsel was discharged for cause and therefore was not entitled to compensation or a retaining lien.
3. Whether the amount of work performed by former counsel and the nature of its contribution to the ultimate judgment were relevant to the existence of a charging lien.
4. Whether plaintiff presented sufficient evidence that she could not pay the retaining lien or otherwise obtain copies of medical records to require further proceedings.

HOLDINGS

1. Supreme Court properly summarily granted plaintiff's former counsel a charging lien and a retaining lien because plaintiff did not make a prima facie showing requiring a hearing.
2. The amount of work performed by former counsel and the nature of its contribution to the ultimate judgment are not relevant to determining whether a charging lien exists.
3. Plaintiff did not establish a factual basis for requiring a hearing concerning her alleged inability to pay the retaining lien or otherwise obtain copies of medical records.

KEY QUOTATIONS

*“The amount of work performed by EKJ and the nature of its contribution to the ultimate judgment are not relevant to the determination of whether to award a charging lien, as such a lien is available to any attorney of record in a matter and comes into existence upon commencement of the action or proceeding” ([*1])*

FACTUAL BACKGROUND

Plaintiff's former counsel, Edelman, Krasin & Jaye PLLC, sought and obtained charging and retaining liens in the underlying action. Plaintiff admitted that the firm had committed no malpractice or misconduct, and her complaints concerned generalized dissatisfaction, strategic choices, and personality conflicts or differences of opinion. Plaintiff also offered no evidence supporting her claims that she could not pay the retaining lien or otherwise obtain copies of medical records in the firm's file.

PROCEDURAL HISTORY

Supreme Court, New York County, entered an order on November 21, 2023, granting plaintiff's former counsel, Edelman, Krasin & Jaye PLLC, a charging lien and a retaining lien. The Appellate Division, First Department, unanimously affirmed the order without costs.

DISPOSITION

affirmed

CASES CITED

- Butler, Fitzgerald & Potter v. Gelmin, 235 A.D.2d 218, 218-219 (1st Dep't 1997)
- Campagnola v. Mulholland, Minion & Roe, 76 N.Y.2d 38, 43-44 (1990)
- Klein v. Eubank, 87 N.Y.2d 459, 462-464 (1996)
- Tirado-Sottosanyti v. Crowley, 220 A.D.3d 820, 822 (2d Dep't 2023)
- Doviak v. Finkelstein & Partners, LLP, 90 A.D.3d 696, 699 (2d Dep't 2011)
- LMWT Realty Corp. v. Davis Agency, 85 N.Y.2d 462, 467 (1995)
- Cohen v. Cohen, 183 A.D.2d 802, 803 (2d Dep't 1992)
- Rosen v. Rosen, 97 A.D.2d 837, 837 (2d Dep't 1983)

OPINION

PER CURIAM.

Lee v Nejat (2025 NY Slip Op 06967) Lee v Nejat 2025 NY Slip Op 06967 Decided on December 16, 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: December 16, 2025 Before: Moulton, J.P., Kennedy, Mendez, Michael, Chan, JJ. Index No. 800296/11|Appeal No. 5394|Case No. 2024-01665| [*1]Susan S. Lee, Plaintiff-Appellant, v Morris Nejat, M.D., etc., et al., Defendants.

Edelman, Krasin & Jaye, PLLC, Nonparty-Respondent. Law Office of Richard B. Zarco, P.C., New York (Richard B. Zarco of counsel), for appellant. Edelman, Krasin & Jaye, PLLC, Westbury (Kara M. Rosen of counsel), for respondent. Order, Supreme Court, New York County (Erika M. Edwards, J.), entered November 21, 2023, which, to the extent appealed from, granted the request of plaintiff's former counsel, Edelman, Krasin & Jaye PLLC, for a charging lien and a retaining lien, unanimously affirmed, without costs.

Supreme Court acted properly in summarily granting a charging and a retaining lien to plaintiff's former counsel at Edelman, Krasin & Jaye PLLC (EKJ) (see generally Butler, Fitzgerald & Potter v Gelmin, 235 AD2d 218, 218-219 [1st Dept 1997]). Plaintiff failed to make a prima facie showing that EKJ was discharged for cause and thus not entitled to any compensation or a retaining lien (see Campagnola v Mulholland, Minion & Roe, 76 NY2d 38, 43-44 [1990]).

Plaintiff admits that EKJ did not commit any malpractice or misconduct and none of plaintiff's complaints about EKJ rise above the level of "generalized dissatisfaction," "dissatisfaction with reasonable strategic choices," or "personality conflicts, misunderstandings or differences of opinion having nothing to do with any impropriety" (see Klein v Eubank, 87 NY2d 459, 463-464 [1996]; Tirado-Sottosanyti v Crowley, 220 AD3d 820, 822 [2d Dept 2023]; Doviak v Finkelstein & Partners, LLP, 90 AD3d 696, 699 [2d Dept 2011]).

Thus, there was no need for a hearing (see Tirado-Sottosanyti, 220 AD3d at 822). The amount of work performed by EKJ and the nature of its contribution to the ultimate judgment are not relevant to the determination of whether to award a charging lien, as such a lien is available to any attorney of record in a matter and comes into existence upon commencement of the action or proceeding (see Judiciary Law § 475; Klein, 87 NY2d at 462; LMWT Realty Corp. v Davis Agency, 85 NY2d 462, 467 [1995]).

There is no evidence to support plaintiff's claims regarding her inability to pay the retaining lien or to otherwise obtain copies of the medical records in EKJ's file (see generally Cohen v Cohen, 183 AD2d 802, 803 [2d Dept 1992]; Rosen v Rosen, 97 AD2d 837, 837 [2d Dept 1983]). While plaintiff argues that she could have presented such evidence at a hearing, she was required to first make a prima facie showing that a hearing was necessary, which she did not do.

Insofar as the documents reviewed by the court in camera were timely received and reviewed by this Court, there is no basis to dismiss this appeal for failure to file an adequate record. THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT. ENTERED: December 16, 2025

PER CURIAM.

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reasonable strategic choices," or "personality conflicts, misunderstandings or differences of opinion having nothing to do with any impropriety" (see *Klein v Eubank*, 87 NY2d 459, 463-464 [1996]; *Tirado-Sottosanyti v Crowley*, 220 AD3d 820, 822 [2d Dept 2023]; *Doviak v Finkelstein & Partners, LLP*, 90 AD3d 696, 699 [2d Dept 2011]).

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