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

Link Motion Inc. v. DLA Piper LLP (US)

2026 NY Slip Op 02066 · No. Index No. 653322/22; Appeal Nos. 6295-6296-6297; Case Nos. 2025-01716, 2025-01979, 2025-04103 · Decided April 7, 2026

SUMMARY

The Appellate Division, First Department, unanimously affirmed a judgment awarding DLA Piper LLP (US) $482,390.56 in sanctions and attorneys' fees against Link Motion Inc. and nonparty appellants. The court held that Link Motion's legal-malpractice claim was untimely because DLA's representation had ended when Link Motion stated it could not pay, and that the claim also failed to state a cause of action. The court further upheld sanctions under 22 NYCRR 130-1.1 and the amount of attorneys' fees determined after a fee hearing.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, First Department
WRITING FOR THE COURT	Scarpulla, J.P.; Friedman, J.; Shulman, J.; Rodriguez, J.; Rosado, J.
JURISDICTION	New York Supreme Court, Appellate Division, First Department
DECIDED	April 7, 2026
DOCKET	Index No. 653322/22; Appeal Nos. 6295-6296-6297; Case Nos. 2025-01716, 2025-01979, 2025-04103
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiff appealed from a judgment awarding DLA Piper sanctions and attorneys' fees after dismissal of an amended legal-malpractice complaint. Nonparty appellants also appealed from the dismissal and sanctions orders.
STANDARD OF REVIEW	The court reviewed dismissal for failure to state a cause of action, the award of sanctions, and the determination of attorneys' fees for legal sufficiency and abuse of discretion, respectively.
PRECEDENTIAL VALUE	Published
PARTIES	Link Motion Inc., Felicello Law P.C., Rosanne E. Felicello, Michael J. Maloney v. DLA Piper LLP (US), Other defendants

TOPICS

statute of limitations | sanctions | attorney fees | motions to dismiss | appellate procedure

PRACTICE AREAS

legal malpractice | civil procedure | appellate procedure | sanctions | attorney fees

QUESTIONS PRESENTED

1. Whether the continuous-representation toll applied to render Link Motion's legal-malpractice claim timely.
2. Whether the amended complaint stated a cause of action for legal malpractice.
3. Whether sanctions under 22 NYCRR 130-1.1 were properly imposed against Link Motion and Felicello Law.
4. Whether the amount of attorneys' fees and disbursements awarded to DLA Piper was reasonable.

HOLDINGS

1. The continuous-representation toll ended when Link Motion was informed or put on notice that DLA Piper had withdrawn from the representation, which occurred on January 21, 2019. Without the toll, the malpractice claim was untimely, even assuming the COVID toll applied.
2. The action was properly dismissed for failure to state a cause of action because the communications concerning DLA Piper's representation foreclosed the possibility that Link Motion could establish, or that Felicello Law could in good faith have believed, that DLA Piper breached a duty to provide competent legal services.
3. Sanctions were properly awarded against Link Motion and Felicello Law because they asserted a frivolous legal-malpractice claim containing false allegations despite having no possibility of proving, and no good-faith basis for believing, that DLA Piper acted negligently.
4. The lower court providently exercised its discretion in determining the reasonable amount of attorneys' fees and disbursements incurred by DLA Piper in defending the litigation.

KEY QUOTATIONS

> *"even when further representation concerning the specific matter in which the attorney allegedly committed the complained of malpractice is needed and contemplated by the client, the continuous representation toll would nonetheless end once the client is informed or otherwise put on notice of the attorney's withdrawal from representation"* ([*1])

FACTUAL BACKGROUND

DLA Piper provided Link Motion limited representation during the first stage of a federal derivative action. DLA asked for consent to withdraw if Link Motion could not pay to proceed, and Link Motion responded on January 21, 2019 that it could not pay. Link Motion later asserted that DLA's representation continued until at least

February 4, 2019 and brought a legal-malpractice claim, but the communications contradicted those allegations and showed that the representation ended on January 21, 2019.

PROCEDURAL HISTORY

Supreme Court, New York County dismissed the amended complaint for failure to state a cause of action, awarded defendants sanctions including reasonable attorneys' fees, and referred the matter for a fee hearing. It later entered a judgment awarding DLA Piper $482,390.56 plus interest against Link Motion and the nonparty appellants. The Appellate Division affirmed the judgment and dismissed the appeals from the underlying orders as subsumed in the judgment.

DISPOSITION

affirmed

CASES CITED

- Shumsky v. Eisenstein, 96 N.Y.2d 164, 171 (2001)
- Walsh v. Wallace Law Off., 203 A.D.3d 684, 685 (1st Dep't 2022)
- Kyowa Seni, Co., Ltd. v. ANA Aircraft Technics, Co., Ltd., 239 A.D.3d 413, 414 (1st Dep't 2025)
- Sprecase v. Tenreiro, 216 A.D.3d 499 (1st Dep't 2023), leave dismissed, 40 N.Y.3d 1090 (2024)

OPINION

Link Motion Inc. v. DLA Piper LLP (us) 2026 NY Slip Op 02066
PER CURIAM.
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Maloney of counsel), for Link Motion Inc., appellant.</p> <p>Law Office of Daniel L. Abrams, PLLC, New York (Daniel L. Abrams of counsel), for Felicello Law P.C., Rosanne E. Felicello and Michael J. Maloney, appellants.</p> <p>Gibson, Dunn & Crutcher LLP, New York (Nancy E. Hart of counsel), for respondents.</p> </div> [*1] <p>Judgment, Supreme Court, New York County (Andrew Borrok, J.), entered June 16, 2025, awarding defendant DLA Piper LLP (US) sanctions and attorneys' fees in the amount of $482,390.56, plus interest, against plaintiff Link Motion Inc. and nonparty-appellants Felicello Law P.C., Rosanne Felicello, and Michael Maloney, unanimously affirmed, with costs. Appeals from order, same court and Justice, entered on or about February 19, 2025, dismissing the amended complaint and awarding defendants sanctions, including their reasonable attorneys' fees incurred in defending the action, and from supplemental order, same court and Justice, entered on or about March 11, 2025, clarifying the February 19, 2025 order and referring the matter for a hearing to determine the amount of attorneys' fees to be awarded, unanimously dismissed, without costs, as subsumed in the judgment.</p> <p>The court correctly found that the record of the communications between DLA and plaintiff concerning DLA's limited representation of plaintiff in the first stage of a federal derivative action clearly established that plaintiff was on notice that DLA's representation in that action ended as of January 21, 2019. That was the day that plaintiff told DLA it could not pay DLA, in response to DLA's message from a day earlier requesting consent to withdraw from representation if plaintiff could not pay it to go forward. These communications to and from plaintiff refute any allegations to the contrary, as well as the allegations that the legal representation continued after that date until at least February 4, 2019 (<i>see Shumsky v Eisenstein</i>, 96 NY2d 164, 171 [2001] ["even when further representation concerning the specific matter in which the attorney allegedly committed the complained of malpractice is needed and contemplated by the client, the continuous representation toll would nonetheless end once the client is informed or otherwise put on notice of the attorney's withdrawal from representation"]; <i>Walsh v Wallace Law Off.</i>, 203 AD3d 684, 685 [1st Dept 2022]). In the absence of a "continuous representation toll," the claim was untimely filed, even if the COVID toll were to apply.</p> <p>The action was, in any event, properly dismissed for failure to state a cause of action. The record of the communications described above between DLA and plaintiff concerning the former's representation in the federal case forecloses the possibility that plaintiff could show, or that Felicello Law could in good faith have believed, that DLA's conduct in that matter breached a duty to provide competent legal services.</p> [*2] <p>The court correctly awarded sanctions pursuant to 22 NYCRR 130-1.1 against plaintiff and Felicello Law for the assertion of the same frivolous legal malpractice claim that resulted in Rule 11 sanctions in the mirror image federal malpractice action. The record establishes that certain allegations in the complaint were false and that plaintiff and its counsel had no possibility of proving, nor any good faith basis for believing, that DLA acted negligently in its representation (<i>see Kyowa Seni, Co., Ltd. v ANA Aircraft Technics, Co., Ltd.</i>, 239 AD3d 413, 414 [1st Dept 2025]). Furthermore, the court providently exercised its discretion in determining, based on the evidence submitted at the fee hearing, the reasonable amount of attorneys' fees and disbursements incurred by DLA in defending the litigation (<i>see e.g. Sprecase v Tenreiro</i>, 216 AD3d 499 [1st Dept 2023], <i>lv dismissed</i> 40 NY3d 1090 [2024]).</p> <p>THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.</p> <p>ENTERED: April 7, 2026</p> </div> <div> <footer> <div> <p>Court Decisions</p> All Court Decisions Official Reports Service Bound Volumes Decision Search </div> <div> <p>Resources</p> RSS Feeds Style Manual Citation Tools Opinion Formatting & Privacy Guidelines Opinion Selection Criteria Legal Research Portal Site Index </div> <div> <p>About</p> About the Law Reporting Bureau About our Operations Contact Us Twitter </div> <div> <p>Quick Contact Info</p> <p>17 Lodge Street</p> <p>Albany, NY 12207</p> <p>Phone: (518) 453-6900</p> </div> </footer> </div> <div> <p>Links to or from other sites do not signify endorsement or relationship with them.</p> </div> </div>