

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

Sobiech v. Dillon

2026 NY Slip Op 00278 · No. 2021-04720 · Decided January 21, 2026

SUMMARY

The Appellate Division, Second Department, affirmed an order denying the plaintiffs' requested preliminary injunctions concerning the removal of hay and topsoil, purchases charged to the plaintiffs' account, and excessive energy consumption at real property. The court held that the plaintiffs failed to demonstrate a likelihood of success on the merits, irreparable injury, or that the equities favored injunctive relief.

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.; Deborah A. Dowling, J.; Barry E. Warhit, J.; Laurence L. Love, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
DECIDED	January 21, 2026
DOCKET	2021-04720
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiffs appealed from an order denying portions of their motion for a preliminary injunction in a consolidated action concerning a lease and possession of real property.
STANDARD OF REVIEW	Whether to grant or deny a preliminary injunction rests in the sound discretion of the motion court; appellate courts generally will not disturb that determination absent unusual or compelling circumstances.
PRECEDENTIAL VALUE	Published New York Appellate Division decision
PARTIES	Edwin Sobiech, et al. v. Leora Dillon, et al.

TOPICS

injunctions

real estate

equitable relief

appellate procedure

standard of review

PRACTICE AREAS

real estate

equitable remedies

civil procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether the Supreme Court providently exercised its discretion in denying preliminary injunctive relief concerning the defendants' alleged removal of hay and topsoil, purchases on the plaintiffs' account, and excessive energy consumption.

HOLDINGS

1. The plaintiffs were not entitled to a preliminary injunction because they failed to demonstrate a likelihood of success on the merits, irreparable injury absent the injunction, or that the equities balanced in their favor.

KEY QUOTATIONS

“To establish the right to a preliminary injunction, a movant must demonstrate (1) the likelihood of success on the merits, (2) irreparable injury absent a preliminary injunction, and (3) that the equities balance in the movant's favor” ([*1]-[*2])

“The decision whether to grant or deny a preliminary injunction rests in the sound discretion of the court hearing the motion” ([*2])

“Absent unusual or compelling circumstances, appellate courts are reluctant to disturb that determination” ([*2])

FACTUAL BACKGROUND

The dispute concerned real property located in Warwick and alleged conduct by the defendants involving removal of hay and topsoil, purchases at certain establishments charged to the plaintiffs' account, and wasteful or excessive energy consumption. The plaintiffs sought a preliminary injunction prohibiting that conduct without authorization or payment.

PROCEDURAL HISTORY

In the consolidated action, the plaintiffs sought a declaratory judgment that a lease was null and void and sought possession of real property. The Supreme Court, Orange County, denied the portions of the plaintiffs' preliminary-injunction motion directed at removal of hay and topsoil, purchases charged to the plaintiffs' account, and excessive energy consumption. The Appellate Division affirmed those portions of the order.

DISPOSITION

affirmed

CASES CITED

- Benaim v S2 Corona, LLC, 214 AD3d 760, 761
- Braunstein v Hodges, 157 AD3d 850
- Cong. Machon Chana v Machon Chana Women's Inst., Inc., 162 AD3d 635, 637
- Cushing v Sanford Equities Corp., 223 AD3d 870, 871

OPINION

PER CURIAM.

Sobiech v Dillon (2026 NY Slip Op 00278) Sobiech v Dillon 2026 NY Slip Op 00278 Decided on January 21, 2026 Appellate Division, Second 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 on January 21, 2026 SUPREME COURT OF THE STATE OF NEW YORK Appellate Division, Second Judicial Department MARK C. DILLON, J.P.

DEBORAH A. DOWLING BARRY E. WARHIT LAURENCE L. LOVE, JJ. 2021-04720 (Index No. 8345/19) [*1]Edwin Sobiech, et al., appellants, v Leora Dillon, et al., respondents (and a third-party action). Fox Rothschild LLP, New York, NY (Ernest Edward Badway, Michael Ross Lieberman, and Michael J. Mahon of counsel), for appellants. Hinman, Howard & Kattell, LLP, Binghamton, NY (Linda B. Johnson and Ronald L. Greene of counsel), for respondents.

DECISION & ORDER In a consolidated action, inter alia, for a judgment declaring that a certain lease is null and void and proceeding to recover possession of certain real property, the plaintiffs appeal from an order of the Supreme Court, Orange County (Robert A. Onofry, J.), dated June 17, 2021.

The order, insofar as appealed from, denied those branches of the plaintiffs' motion which were for a preliminary injunction enjoining the defendants from removing hay from the subject property without authorization or payment, removing topsoil from the property without authorization or payment, making purchases at certain establishments on the "[p]laintiffs' account," and engaging in wasteful and excessive energy consumption.

ORDERED that the order is affirmed insofar as appealed from, with costs. The facts underlying this appeal are set forth in this Court's decision and order on a related appeal (see Sobiech v Dillon, _____ AD3d _____ [Appellate Division Docket No. 2021-00711; decided herewith]).

The plaintiffs moved for a preliminary injunction enjoining the defendants from engaging in various conduct relating to certain real property located in Warwick (hereinafter the subject property). In an order dated June 17, 2021, the Supreme Court, inter alia, denied those branches of the plaintiffs' motion which were for a preliminary injunction enjoining the defendants from

removing hay from the subject property without authorization or payment, removing topsoil from the subject property without authorization or payment, making purchases at certain establishments on the "[p]laintiffs' account," and engaging in wasteful and excessive energy consumption.

The plaintiffs appeal. "To establish the right to a preliminary injunction, a movant must demonstrate (1) the likelihood of success on the merits, (2) irreparable injury absent a preliminary injunction, and (3) that the equities balance in the movant's favor" (*Benaim v S2 Corona, LLC*, 214 AD3d 760, 761; see CPLR 6301; *Braunstein v Hodges*, 157 AD3d 850). "The decision whether to grant or deny a preliminary injunction rests in the sound discretion of the court hearing the motion" (*Benaim v S2 Corona, LLC*, 214 AD3d at 761; see Cong.

Machon Chana v Machon Chana Women's Inst., Inc., 162 AD3d 635, 637). "Absent unusual or compelling circumstances, appellate courts are reluctant to disturb that determination" (Cong. *Machon Chana v Machon Chana Women's Inst., Inc.*, 162 [*2]AD3d at 637; see *Cushing v Sanford Equities Corp.*, 223 AD3d 870, 871).

Here, the Supreme Court providently exercised its discretion in denying those branches of the plaintiffs' motion which were for a preliminary injunction enjoining the defendants from removing hay from the subject property without authorization or payment, removing topsoil from the subject property without authorization or payment, making purchases at certain establishments on the plaintiffs' account, and engaging in wasteful and excessive energy consumption.

The plaintiffs failed to demonstrate a likelihood of success, irreparable injury absent the grant of the preliminary injunction, or that the equities balanced in their favor (see *Benaim v S2 Corona, LLC*, 214 AD3d at 761; *Braunstein v Hodges*, 157 AD3d 850). DILLON, J.P., DOWLING, WARHIT and LOVE, JJ., concur. ENTER: Darrell M. Joseph Clerk of the Court