

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

11 Grace Lane, LLC v. East Norwich Land Co., LLC

2026 NY Slip Op 02808 · No. 2024-10486 · Decided May 6, 2026

SUMMARY

The Appellate Division, Second Department, affirmed an order denying the plaintiff's motion for a preliminary injunction in an action involving alleged trespass, private nuisance, and negligence arising from errant golf balls from an adjacent driving range. The court held that the plaintiff failed to establish a likelihood of success on the merits, irreparable injury, or a balance of equities in its favor. Disputed issues remained concerning whether the golf balls constituted a trespass or created a danger on the plaintiff's property.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Lara J. Genovesi, J.P.; William G. Ford, J.; Lourdes M. Ventura, J.; Susan Quirk, J.
JURISDICTION	New York Supreme Court, Appellate Division, Second Department
DECIDED	May 6, 2026
DOCKET	2024-10486
DISPOSITION	affirmed
PROCEDURAL POSTURE	The plaintiff appealed from an order of the Supreme Court, Nassau County, denying its motion for a preliminary injunction in an action alleging private nuisance, trespass, and negligence.
STANDARD OF REVIEW	A preliminary-injunction determination rests in the sound discretion of the motion court and ordinarily will not be disturbed absent unusual or compelling circumstances. Preliminary injunctive relief requires a clear right established by law and undisputed facts, including likelihood of success on the merits, irreparable injury absent relief, and a balance of equities favoring the movant.
PRECEDENTIAL VALUE	published

PARTIES

11 Grace Lane, LLC v. East Norwich Land Company, LLC, Pine Hollow CC, LLC

TOPICS

injunctions trespass nuisance negligence appellate procedure

PRACTICE AREAS

injunctive relief real property torts appellate procedure

QUESTIONS PRESENTED

1. Whether the plaintiff established a clear right to a preliminary injunction under CPLR article 63 by demonstrating likelihood of success on the merits, irreparable injury, and a balance of equities in its favor.
2. Whether the Supreme Court abused its discretion by denying the preliminary injunction despite disputed issues concerning whether errant golf balls constituted a trespass or created a danger on the plaintiff's property.

HOLDINGS

1. The plaintiff was not entitled to a preliminary injunction because its submissions failed to establish a likelihood of success on the merits, irreparable injury, or a balance of equities in its favor.
2. The Supreme Court providently exercised its discretion in denying the plaintiff's motion for a preliminary injunction, and the order was affirmed insofar as appealed from.

KEY QUOTATIONS

“Preliminary injunctive relief is a drastic remedy which will not be granted unless a clear right thereto is established under the law and the undisputed facts upon the moving papers, and the burden of showing an undisputed right rests upon the movant” ([*1])

“A preliminary injunction may be granted under CPLR article 63 when the party seeking such relief demonstrates: (1) a likelihood of ultimate success on the merits; (2) the prospect of irreparable injury if the provisional relief is withheld; and (3) a balance of equities tipping in the moving party's favor” ([*2])

“While the existence of issues of fact alone will not justify denial of a motion for a preliminary injunction, the motion should not be granted where there are issues that subvert the plaintiff's likelihood of success on the merits . . . to such a degree that it cannot be said that the plaintiff established a clear right to relief” ([*2])

FACTUAL BACKGROUND

In January 2023, the plaintiff purchased residential property at 11 Grace Lane in Oyster Bay, directly adjoining property owned by East Norwich Land Company, LLC. East Norwich leased its property to Pine Hollow CC, LLC, which operated an 18-hole golf course and driving range adjacent to the plaintiff's western boundary. The

plaintiff alleged that errant golf balls from the driving range entered its property daily, constituting a trespass and creating a danger to persons there.

PROCEDURAL HISTORY

The plaintiff commenced the action in April 2023 and moved for a preliminary injunction barring operation of the defendants' golf-driving range until measures were taken to reduce errant golf balls entering the plaintiff's property. The Supreme Court, Nassau County, denied the motion in an order entered May 15, 2024. The Appellate Division affirmed the order insofar as appealed from.

DISPOSITION

affirmed

CASES CITED

- Bilgrei v. North Shore Tower Apts., Inc., 228 AD3d 814, 814-815
- Brighton Leasing Corp. v. Brighton Realty Corp., 233 AD3d 839, 840-841
- Shake Shack Fulton St. Brooklyn, LLC v. Allied Prop. Group, LLC, 177 AD3d 924, 927
- Benaim v. S2 Corona, LLC, 214 AD3d 760, 761
- Kenner v. Balkany, 219 AD3d 1504, 1506
- R & G Brenner Income Tax Consultants v. Fonts, 206 AD3d 943, 945

OPINION

PER CURIAM.

11 Grace Lane, LLC v East Norwich Land Co., LLC - 2026 NY Slip Op 02808

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Appellate Division, Second Department

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This decision is uncorrected and subject to revision before publication in the Official Reports.

11 Grace Lane, LLC, appellant,

v

East Norwich Land Company, LLC, et al., respondents.

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

Decided on May 6, 2026

2024-10486, (Index No. 606861/23)

Lara J.

Genovesi, J.P.

William G. Ford

Lourdes M. Ventura

Susan Quirk, JJ.

Harfenist Kraut & Perlstein, LLP, Lake Success, NY (Andrew C. Lang of counsel), for appellant.

Weber Law Group LLP, Melville, NY (Jason A. Stern of counsel), for respondents.

DECISION & ORDER

In an action for injunctive relief and to recover damages for private nuisance, trespass, and negligence, the plaintiff appeals from an order of the Supreme Court, Nassau County (Danielle M. Peterson, J.), entered May 15, 2024.

The order, insofar as appealed from, denied the plaintiff's motion for a preliminary injunction.

ORDERED that the order is affirmed insofar as appealed from, with costs.

In January 2023, the plaintiff purchased residential real property located at 11 Grace Lane in Oyster Bay. Directly adjoining the plaintiff's property is a property owned by the defendant East Norwich Land Company, LLC (hereinafter East Norwich).

East Norwich leases this property to the defendant Pine Hollow CC, LLC (hereinafter the club), which operates, among other amenities, an 18-hole golf course and a driving range. The driving range is situated directly adjacent to the plaintiff's property and extends the full length of the property's western boundary line.

In April 2023, the plaintiff commenced this action for injunctive relief and to recover damages for private nuisance, trespass, and negligence.

The plaintiff alleged that its property was subject to a daily bombardment of errant golf balls hit from the club's driving range and that the constant intrusion of golf balls constituted a trespass and created a danger to those on the property. Along with the filing of a summons and complaint, the plaintiff moved for a preliminary injunction enjoining the defendants from operating and using the club's driving range until the defendants took effective and ameliorative measures to stop or significantly reduce the number of errant golf balls intruding upon the plaintiff's property.

In an order entered May 15, 2024, the Supreme Court, among other things, denied the plaintiff's motion for a preliminary injunction. The plaintiff appeals.

"Preliminary injunctive relief is a drastic remedy which will not be granted unless a clear right thereto is established under the law and the undisputed facts upon the moving papers, and the burden of showing an undisputed right rests upon the movant" (*Bilgrei v North Shore Tower Apts., Inc.*, 228 AD3d 814, 814-815 [alteration and internal quotation marks omitted]).

"A preliminary injunction may be granted under CPLR article 63 when the party seeking such relief demonstrates: (1) a likelihood of ultimate success on the merits; (2) the prospect of irreparable injury if the provisional relief is withheld; and (3) a balance of equities tipping in the moving party's favor" [*2] (*Brighton Leasing Corp. v Brighton Realty Corp.*, 233 AD3d 839, 840 [internal quotation marks omitted]; *see* CPLR 6301; *Shake Shack Fulton St. Brooklyn, LLC v Allied Prop.*

Group, LLC, 177 AD3d 924, 927). "The decision whether to grant or deny a preliminary injunction rests in the sound discretion of the court hearing the motion. Absent unusual or compelling circumstances, appellate courts are reluctant to disturb that determination" (*Brighton Leasing Corp. v Brighton Realty Corp.*, 233 AD3d at 840-841, quoting *Benaim v S2 Corona, LLC*, 214 AD3d 760, 761).

"While the existence of issues of fact alone will not justify denial of a motion for a preliminary injunction, the motion should not be granted where there are issues that subvert the plaintiff's likelihood of success on the merits... to such a degree that it cannot be said that the plaintiff established a clear right to relief" (*Kenner v Balkany*, 219 AD3d 1504, 1506 [internal quotation marks omitted]).

Here, the plaintiff's evidentiary submissions failed to show a likelihood of success on the merits, and the record reveals disputed and unresolved issues with regards to whether errant golf balls hit from the club's driving range constitute a trespass or create a danger to those on the property (*see* *Bilgrei v North Shore Tower Apts., Inc.*, 228 AD3d at 815).

The plaintiff also failed to demonstrate that irreparable injury would result in the absence of a preliminary injunction or that the balance of equities resolves in its favor (*see* *R & G Brenner Income Tax Consultants v Fonts*, 206 AD3d 943, 945).

Because the plaintiff failed to show a clear right to relief, the Supreme Court providently exercised its discretion in denying the plaintiff's motion for a preliminary injunction.

GENOVESI, J.P., FORD, VENTURA and QUIRK, JJ., concur.

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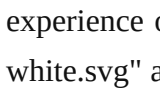
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PER CURIAM.

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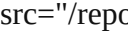


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