

JOSEPH KATUSHA,

Plaintiff,

vs.

DANIEL MIZRAHI a/k/a DANNY
MIZRAHI, ALEKSANDRA MIZRAHI,
and D&A PROPERTIES SOLUTIONS,
LLC,

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, BERGEN COUNTY

DOCKET NO.: BER-L-7869-25

Civil Action

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**PLAINTIFF'S REPLY BRIEF IN FURTHER SUPPORT OF MOTION
FOR LEAVE TO FILE SECOND AMENDED COMPLAINT**

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On the brief:

Glenn R. Reiser
Nadine Yavru-Sakuk

SHAPIRO CROLAND REISER
APFEL & DI IORIO, L.L.P.
Glenn R. Reiser, Attorney Id. 021481990
Nadine Yavru-Sakuk, Attorney Id. 033412005
411 Hackensack Avenue
Hackensack, New Jersey 07601
(201) 488-3900
Attorneys for Plaintiff

PRELIMINARY STATEMENT

Defendants' opposition asks the Court to view this case as though plaintiff, Joseph Katusha ("Plaintiff" or "Mr. Katusha"), waited more than six years to assert claims that he could and should have filed earlier in New Jersey. That is not the record. Mr. Katusha timely sued these same Defendants in New York in June 2022 and pursued the case there. He obtained restraints, moved for default judgment, participated in an inquest, and obtained a final money judgment. He then filed this New Jersey action for the only relief that was necessary while the New York judgment remained valid: domestication and enforcement of that judgment.

Only recently, on March 31, 2026, did Aleksandra Mizrahi and D&A Properties Solutions, LLC ("D&A Properties") succeed in vacating the New York judgment for lack of personal jurisdiction. However, that ruling did not: (i) decide the merits; (ii) hold that Mr. Katusha was not defrauded; (iii) hold that no contract existed; (iv) hold that Defendants owed no fiduciary duties; (v) that D&A Properties was not used as an instrumentality of fraud; or (vi) that Mr. Katusha lacked any equitable interest in the Fort Lee property.

Defendants now seek to convert their jurisdictional ruling in New York into a merits forfeiture in New Jersey. Their position is both inequitable and inconsistent with the purpose of statutes of limitation. This is not a stale claim. Defendants have known about this dispute for years. Plaintiff did not sleep on his rights; he pursued them continuously, and the procedural path changed only because of the New York Court's March 31, 2026 ruling.

The opposition also improperly treats all Defendants the same. Daniel Mizrahi is different. He did not move to vacate the New York judgment, and thus it remains valid and enforceable against him in New Jersey. The statute-of-limitations issue raised by his wife Aleksandra and D&A Properties does not defeat Plaintiff's domestication and enforcement

count against Daniel. Daniel's current incarceration and criminal conviction further underscore why Plaintiff's post-judgment enforcement path was reasonable and necessary.

Nor should the Court be persuaded by Defendants' opposition resting on the misguided notion that N.J.S.A. 2A:14-28 compels Plaintiff's file a new action under a different docket number. Requiring dismissal or denial of the proposed amendment merely to compel Plaintiff to repackage the same pleading under a new docket number would elevate form over substance and would serve no purpose related to notice, repose, prejudice, or judicial economy.

At bottom, Defendants' opposition asks for the wrong ruling. The issue is not merely whether Plaintiff should proceed by amendment or by a separate docket number. The threshold issue is whether Defendants may use the statute of limitations to extinguish claims that Plaintiff timely filed in New York, pursued to judgment, and then sought to preserve in New Jersey immediately after a vacatur based on lack of personal jurisdiction. They may not. If the Court concludes that the better procedural course is a new action under N.J.S.A. 2A:14-28, Plaintiff can comply with that direction. But the Court should not deny amendment on futility grounds or enter any ruling suggesting that the claims are time-barred.

MATERIAL PROCEDURAL HISTORY

The chronology is central because Defendants' limitations argument depends on detaching the proposed amendment from the years of litigation that preceded it. Properly understood, this case is not a late-filed action. It started with a timely filed New York merits action, followed by a valid New York judgment, followed by a New Jersey domestication action, followed by a prompt merits amendment after vacatur of the New York default judgment based on lack of personal jurisdiction.

A. New York Proceedings¹

Date	Event
January 18, 2019	Plaintiff alleges that he wired \$200,000 for the Fort Lee investment property and separately deposited \$20,000 for project-related emergency purposes.
June 22, 2022	Plaintiff filed the New York merits action against Daniel Mizrahi, Aleksandra Mizrahi, Mizrahi Strategies, LLC, and D&A Properties Solutions, LLC.
October 26, 2022	The New York court entered restraints concerning the Fort Lee property and its proceeds during the pendency of the action.
July 31, 2023	New York court granted Plaintiff default relief.
November 1, 2023	The New York court conducted an inquest.
December 12, 2023	The New York court entered final judgment in favor of Plaintiff.
April 4, 2024	Aleksandra Mizrahi and D&A Properties moved to vacate the default judgment and dismiss for lack of personal jurisdiction. Daniel Mizrahi did not join that motion.
2024-2026	Plaintiff opposed the vacatur motion and litigated jurisdictional discovery.
November 25, 2025	Plaintiff filed this New Jersey Law Division action to domesticate and enforce the still-valid New York judgment.
March 31, 2026 \ April 4, 2026	The New York court granted relief to Aleksandra and D&A Properties, vacated the judgment as to them, and dismissed the New York action against them for lack of personal jurisdiction.
April 14, 2026	Plaintiff moved in this New Jersey action for leave to file the proposed Second Amended Complaint.

B. New Jersey Proceedings

Date	Event
September 27, 2022	Plaintiff filed a New Jersey Chancery action (Docket No. BER-C-176-22) involving the same Defendants, the same Fort Lee property, and the same underlying dispute. <i>The Complaint sought protective injunctive relief to prohibit the sale of the property and transfer of any sale proceeds, while also placing Defendants on notice in New Jersey of the same factual controversy and overlapping causes of action then pending in New York.</i>

¹ Attached as **Exhibit A** is a copy of the New York case docket.

October 4, 2022	Judge DeLuca recognized that the New Jersey verified complaint contained factual assertions and causes of action against Defendants that were nearly identical to the New York action. The Court declined to entertain the order to show cause at that time and directed personal service so the action could continue in due course.
October 26, 2022	The New York court entered restraints concerning the Fort Lee property and its proceeds during the pendency of the action.
February 1, 2023	Motion for default judgment filed by Plaintiff.
April 20, 2023	Motion for default judgment re-filed by Plaintiff
May 12, 2023	Order Scheduling Proof Hearing
June 19, 2023	Clerk notice scheduling proof hearing for August 7, 2023
July 31, 2023	New York court granted Plaintiff default relief.
August 3, 2023	Letter docketed by Plaintiff's counsel requesting adjournment of proof hearing and case management conference
August 4, 2023	The initial Chancery action was dismissed without prejudice for procedural reasons relating to non-compliance with the proof-hearing schedule and submission of evidence. It was not dismissed on the merits.
August 8, 2023	Plaintiff filed motion for reconsideration of the August 4, 2023 dismissal Order.
August 25, 2023	Order denying Plaintiff's motion for reconsideration but giving Plaintiff 60-days to file motion to reinstate.
November 25, 2025	Plaintiff filed this Law Division action (BER-L-7869-25) to domesticate and enforce the New York judgment.
April 14, 2026	Plaintiff moved for leave to file the proposed Second Amended Complaint (BER-L-7869-25) after the New York judgment was vacated as to Aleksandra and D&A Properties only.

This history defeats the premise of Defendants' opposition. Mr. Katusha did not delay for six years and then attempt to revive a stale controversy. He timely brought the merits claims in New York, filed a related New Jersey Chancery action involving the same property for the limited purpose of obtaining injunctive relief restricting/prohibiting the sale of the property and transfer of the closing proceeds, thereafter obtained a final judgment in New York, brought the current New Jersey suit to domesticate that judgment (once it was deemed

final in New York) and then promptly sought amendment only after the New York judgment was vacated as to these Defendants on personal-jurisdiction grounds.

ARGUMENT

I. LEGAL STANDARD FOR LEAVE TO AMEND AND FUTILITY

Rule 4:9-1 provides that leave to amend “shall be freely given in the interest of justice.” New Jersey courts have repeatedly recognized that this standard is liberal, particularly where the amendment is sought before trial and where the opposing party cannot show meaningful prejudice. The policy behind the Rule is that cases should ordinarily be decided on their merits rather than on pleading technicalities. See Kernan v. One Washington Park Urban Renewal Assocs., 154 N.J. 437, 456-457 (1998); Notte v. Merchants Mut. Ins. Co., 185 N.J. 490, 501 (2006); Interchange State Bank v. Rinaldi, 303 N.J. Super. 239, 256-257 (App. Div. 1997).

Defendants’ opposition rests on futility. A proposed amendment may be denied as futile only where it is plainly unsustainable as a matter of law such that the amended pleading “would be a useless endeavor.” Notte, 185 N.J. at 501. Futility of an amended pleading must be assessed “in light of the factual situation existing at the time each motion is made, id. (quoting Fisher v. Yates, 270 N.J. Super. 458, 467 (App. Div.1994), not by artificially isolating the proposed pleading from the procedural history giving rise to the amendment.

Defendants argue that the proposed Second Amended Complaint is barred by the statute of limitations. That myopic contention fails because it does not consider: (i) equitable tolling; (ii) the statutory savings rule, N.J.S.A. 2A:14-28; (iii) the timely New York filing and entry of the New York judgment; (iv), the limited injunctive relief sought in the earlier filed Chancery suit; (v) the still-valid New York judgment against Daniel Mizrahi; or (vi) Plaintiff’s prompt action in moving to amend his pleading within twelve days after receiving service of

the New York Court's March 31, 2026 ruling. At minimum, Defendants have not shown that the limitations issue is so clear and one-sided that leave to amend should be denied at the pleading stage. In other words, the proposed amended pleading does not amount to a "useless endeavor."

II. EQUITABLE TOLLING PREVENTED THE SIX-YEAR STATUTE OF LIMITATIONS FROM EXPIRING WHILE PLAINTIFF WAS ACTIVELY PROSECUTING THE SAME CLAIMS IN NEW YORK

Defendants' limitations argument begins with a false premise: that the six-year limitations period ran uninterrupted from 2019 until November 25, 2025. It did not. Plaintiff filed the New York merits action on June 22, 2022, well within any six-year limitations' period measured from the January 2019 investment or later events concerning the Fort Lee property. As demonstrated herein, that timely New York filing suspended the running of the New Jersey limitations period under principles of equitable estoppel.

But before addressing Defendants' claim-specific statute of limitations arguments, the Court should first consider the governing limitation principles. New Jersey law recognizes that statutes of limitations "are not self-executing. Such statutes are based on the goals of achieving security and stability in human affairs and ensuring that cases are not tried on the basis of stale evidence." Zaccardi v. Becker, 88 N.J. 245, 256 (1982) (citing Galligan v. Westfield Centre Service, 8 N.J. 188, 191-192 (1980); Tevis v. Tevis, 79 N.J. 422, 430 (1979); Kaczmarek v. N.J. Turnpike Authority, 77 N.J. 329, 337-338 (1978)). The Court in Zaccardi specifically cautioned that mechanical application of statutes of limitation could result in "unnecessarily sacrificing individual justice in particular circumstances." 88 N.J. at 256.

A just accommodation of individual justice and public policy requires that in each case the equitable claims of opposing parties must be identified, evaluated and weighed. Whenever dismissal would not further the Legislature's objectives in prescribing the limitation, the plaintiff should be given an opportunity to assert his claim.

Id. (quoting Galligan, 82 N.J. at 193).

Equitable tolling is the doctrine that implements those principles. It recognizes that a limitations period may be suspended where a plaintiff has acted diligently, where the defendant had timely notice of the claim, where the claim is not stale in any meaningful sense, and where strict application of the limitations period would not further the statute's purposes. The doctrine is especially appropriate where a plaintiff timely files in a forum that later proves defective, but the filing nonetheless gives defendants notice and places the dispute on a course of judicial handling. The New Jersey Supreme Court explained this principle in Galligan. There, the plaintiff timely filed a substantively identical complaint in federal court, but the federal court lacked subject-matter jurisdiction. The plaintiff then filed in New Jersey state court after the limitations period had technically expired. The Supreme Court held that the timely federal filing tolled the New Jersey limitations period because the statutory purposes were satisfied: defendants had notice, the plaintiff acted diligently, there was no meaningful prejudice, and the claim had not become stale. The Court emphasized that limitations statutes should not be applied in an "unswerving" or "mechanistic" manner where dismissal would not advance the Legislature's objectives. Id. at 192-195.

The Appellate Division extended and refined that principle in Mitzner v. West Ridgelawn Cemetery, Inc., 311 N.J. Super. 233 (App. Div. 1998). In that case, the plaintiff filed an action in the New York courts and, after the New Jersey statute of limitations on the plaintiff's claims had run, defendants secured an order from the New York courts dismissing the action for lack of personal jurisdiction. Id. at 235. The plaintiffs commenced an action in the New Jersey courts before the time for filing an appeal from the order of dismissal had expired Id. at 234-235. The appellate court held that the New Jersey action had been timely filed, holding that the principles set forth in Galligan applied even though the first action was brought in a court that lacked personal jurisdiction over the defendant. Id. at 237. The court

concluded that the defendants were not entitled to repose because the plaintiff had pursued the action with reasonable promptness, albeit in the wrong forum. Ibid. The court also held that tolling continues at least until the foreign dismissal becomes final by expiration of the time to appeal. Id. at 238.

The Mitzner Court also relied on Burnett v. New York Cent. R.R. Co., 380 U.S. 424 (1965), where the Supreme Court applied equitable tolling to spare dismissal of a federal suit filed eight days after dismissal of the petitioner's state court claim for improper venue.

Together, Galligan and Mitzner establish the equitable tolling rule applicable here: a timely-filed action in another forum may suspend the New Jersey limitations period where the defendant had notice, the plaintiff was diligent, the claim was not stale, and the first action later failed for jurisdictional reasons. Those are exactly the facts presented here. Plaintiff timely filed the New York action in June 2022. Defendants had notice of the same claims. The action proceeded through default proceedings, inquest, and final judgment. On March 31, 2026, Aleksandra and D&A Properties obtained a jurisdictional dismissal, not a merits dismissal. Plaintiff then moved promptly in New Jersey while the New York dismissal had not yet become final for appeal purposes.

Hartford Accident & Indemnity Co. v. Baker, 208 N.J. Super. 131 (Law Div. 1985), explains the relationship between a sister-state judgment and N.J.S.A. 2A:14-28. Because Hartford is a trial court opinion it is not binding on this Court, and Plaintiff does not overstate it. However, it is persuasive and directly analogous. There, the plaintiff timely filed in New York, obtained a New York default judgment, and filed in New Jersey to enforce that judgment. The Law Division held that ordinary Rule 4:9-3 relation back did not permit the plaintiff to amend the New Jersey enforcement complaint to add the underlying fraud claim after the fraud limitations period had expired. But the court separately recognized that N.J.S.A. 2A:14-28 could apply if the New York judgment were later reversed or dismissed

on grounds unrelated to the merits. The court reasoned that there was no basis, in statutory language or policy, to limit the one-year savings statute to New Jersey judgments, and that no unfair surprise, stale claim, or dilatoriness existed where the plaintiff had timely sued in New York and timely sought enforcement in New Jersey. 208 N.J. Super. at 139-140.

The operative quote from Hartford is directly on point and illustrates why Defendants' arguments fail:

There is no question here that Hartford pursued its cause of action in New York well within statutory restrictions. It is also uncontested that the commencement of the action seeking enforcement of that New York suit fell within the statutory limitations period. There is no unfair surprise present or litigation of a stale claim. Nor does the court find that there was dilatoriness on the part of Hartford. It timely filed the action in New York, sought enforcement of that judgment in New Jersey, and further seeks an amendment which will fall within the terms of *N.J.S.A. 2A:14-28* should the New York courts dismiss Hartford's action. Here, however, the action is still on appeal in New York, rendering the invocation of the grace period prescribed by *N.J.S.A. 2A:14-28* premature. Should Hartford prevail on appeal in New York and its judgment not be reversed, it can of course follow through on enforcement of the judgment in the pending action on the complaint as it now stands.

[Id. at 239-240]

That distinction recognized in Hartford is critical. Plaintiff is not relying solely on Rule 4:9-3 relation back to the November 2025 domestication Complaint. Rather, Plaintiff relies principally on equitable tolling under Galligan and Mitzner, and on the statutory savings rule under N.J.S.A. 2A:14-28 as applied to a sister-state judgment under the reasoning of Hartford. Defendants' opposition is therefore aimed at the wrong target. Even if ordinary relation back alone would be insufficient, equitable tolling and statutory savings defeat Defendants' motion.

The point is not complicated. Once Mr. Katusha filed the New York action, Defendants could no longer claim the kind of repose protected by statutes of limitation. They were on notice that Plaintiff was seeking judicial relief. The dispute was being actively litigated. Plaintiff was not delaying, hiding, or sleeping on his rights. He pursued the action to default,

inquest, and final judgment. Defendants cannot reasonably contend that they were lulled into believing the claim had been abandoned while the same claim was pending in New York that culminated with entry of a final judgment, and the parties were engaged in post-judgment motion practice disputing personal jurisdiction.

The Mitzner Court's rejection of the statute of limitations argument is dispositive here. Aleksandra and D&A Properties did not win in New York because Mr. Katusha's claims lacked merit. They won because the New York court concluded that it lacked personal jurisdiction over them. Under Mitzner, that type of jurisdictional ruling does not erase the tolling effect of the timely New York filing.

Importantly, the Mitzner tolling period had not expired when Mr. Katusha moved to amend his Complaint in New Jersey. The New York order was filed on April 2, 2026. Mr. Katusha moved to amend in New Jersey on April 14, 2026. Under New York practice, the 30-day time to appeal generally runs from service of the order or judgment with notice of entry, see NY CPLR 5513[a], and he moved for leave to amend less than two weeks after the order was served. Thus, Mr. Katusha acted before the New York dismissal had become final for appeal purposes.

This means the Court need not accept Defendants' calculation that the six-year period expired before Plaintiff acted. If the limitations period began on January 18, 2019, approximately three years and five months elapsed before Plaintiff filed the New York action on June 22, 2022. The clock on the remaining two years and seven months of the 6-year limitations period was then tolled while the New York action proceeded. It remained tolled through the New York judgment, the motion to vacate, jurisdictional discovery, and the non-final jurisdictional dismissal. Plaintiff's April 14, 2026 motion was filed while equitable tolling still protected the claims.

Defendants' contrary position would punish diligence. It would mean that a plaintiff who timely files in another forum, litigates for years, obtains a judgment, and then promptly proceeds in New Jersey after a jurisdictional vacatur is worse off than a plaintiff who never filed anywhere. That is not the law. Equitable tolling exists to prevent that result.

III. **N.J.S.A. 2A:14-28 SUPPLIES AN INDEPENDENT STATUTORY SAVINGS PERIOD AFTER THE NEW YORK JUDGMENT WAS VACATED AS TO ALEKSANDRA AND D&A PROPERTIES**

Equitable tolling is sufficient to defeat Defendants' futility argument, but this case also fits within the statutory savings rule. N.J.S.A. 2A:14-28 applies when judgment is given for a plaintiff and that judgment is later reversed, or when judgment passes for the plaintiff and, on a motion for relief from judgment, judgment is later given against him. The plaintiff then has one year to commence a new action. The statute reads as follows:

If, in any of the actions or proceedings specified in sections 2A:14-1 to 2A:14-19, sections 2A:14-22 to 2A:14-25 or section 2A:14-27 of this Title, judgment is given for the plaintiff therein, and such judgment is reversed on appeal, or, if a judgment pass for the plaintiff **and, upon motion for relief from the judgment, judgment is given against him**, the plaintiff, his heirs, executors or administrators, **may commence a new action within 1 year next after the judgment is reversed or judgment is given against plaintiff**, and not thereafter.

This section shall not apply to any action for breach of any contract for sale governed by section 12A:2-725 of the New Jersey Statutes.

Ibid. (emphasis added).

The statutory sequence occurred here. Mr. Katusha timely filed the New York merits action, and final judgment was entered in his favor on December 12, 2023. Aleksandra and D&A Properties later moved for relief from that judgment. On March 31, 2026, the New York court granted their motion and dismissed the New York action as to them for lack of personal jurisdiction; that order was served in New York on April 2, 2026. Plaintiff then moved in New Jersey on April 14, 2026 to plead the underlying claims. He acted within twelve days of the New York order and far within the one-year statutory extension of N.J.S.A. 2A:14-28.

This is where Hartford is useful. Although Hartford denied ordinary relation back from a New Jersey foreign-judgment enforcement complaint to a later-added fraud claim, the court separately recognized that N.J.S.A. 2A:14-28 applies to sister-state judgments later reversed or dismissed on grounds unrelated to the merits. The court's reasoning is directly applicable: where the plaintiff timely pursued the claim in New York and sought enforcement in New Jersey, there is no unfair surprise, no stale claim, and no dilatoriness. The only difference is that Hartford found the savings issue premature because the New York appeal had not yet been decided. Here, the New York court has already granted relief from the judgment as to Aleksandra and D&A Properties. The statutory savings issue is ripe.

Read together, Galligan, Mitzner, Hartford, and N.J.S.A. 2A:14-28 create a coherent rule. A timely foreign filing may equitably toll the New Jersey limitations period when the defendant had notice and the plaintiff acted diligently. If that foreign action proceeds to judgment, and the judgment is later undone for reasons unrelated to the merits, N.J.S.A. 2A:14-28 gives the plaintiff one year to proceed. These doctrines are not separate technicalities; they serve the same purpose. They prevent forfeiture where a plaintiff timely pursued his rights, defendants had notice, and dismissal would not serve repose or protect against stale evidence.

Defendants' position ignores that structure. They argue that the limitations period expired while their New York motion to vacate was pending. But while that motion was pending, Mr. Katusha held a valid New York judgment. Plaintiff was not required to pretend the judgment did not exist and file a duplicative plenary New Jersey action merely because Defendants were attempting to vacate it. The correct and ordinary procedure was to enforce the judgment. Once the judgment was vacated as to Aleksandra and D&A Properties, the statutory savings period applied. Plaintiff then acted within days, not months, and far within the one-year period supplied by N.J.S.A. 2A:14-28.

IV. EVEN IF N.J.S.A. 2A:14-28 COULD REQUIRE A SEPARATE ACTION, JUDICIAL ECONOMY AND RULE 4:9-1 FAVOR AMENDMENT, AND DEFENDANTS ARE NOT ENTITLED TO A LIMITATIONS FORFEITURE

Defendants argue that N.J.S.A. 2A:14-28 cannot assist Plaintiff because the statute refers to commencing a new action, whereas Plaintiff moved to amend his pleading in an action that remains pending. The Court should reject that formalistic argument because it confuses two distinct questions. The first question is whether Plaintiff's claims are preserved by equitable tolling and the statutory savings period. They are. The second question is the procedural vehicle by which those preserved claims should proceed. Plaintiff respectfully submits that amendment is the appropriate vehicle because this action is already pending, the parties are before the Court, the property is in Bergen County, and the proposed claims arise from the same dispute. However, even if the Court concludes that a separate action is technically required, that conclusion would not support Defendants' request for a statute-of-limitations dismissal with prejudice.

Defendants also misread N.J.S.A. 2A:14-28 as a rigid docketing command. The statute provides that a plaintiff "may commence a new action" within one year; it does not say that a plaintiff "shall" do so, nor does it state that a saved claim may not be asserted by amendment where a New Jersey action involving the same parties, same judgment, same transaction, and same property is already pending. The statute creates the savings right. Rule 4:9-1, which provides that leave to amend "shall be freely given in the interest of justice," supplies the procedural mechanism for asserting that preserved claim in a pending action when amendment best serves justice and judicial economy.

There is no conflict between N.J.S.A. 2A:14-28 and Rule 4:9-1. The statute preserves Plaintiff's right to proceed; the Rule permits the preserved claims to be asserted by amendment where doing so is in the interest of justice. That is particularly appropriate here because requiring a separate action would not advance any limitations policy. It would not

provide additional notice, preserve evidence, protect repose, or narrow the issues. It would simply require Mr. Katusha to incur the cost of filing the same pleading under a new docket number, and then ask the Court to consolidate or coordinate the two matters.

The prejudice to Mr. Katusha is concrete. He already has a valid New York judgment against Daniel Mizrahi, who did not obtain vacatur and remains incarcerated in federal prison in Brooklyn. Mr. Katusha already incurred substantial time and expense effecting service on Daniel in this action. Forcing a new complaint would require duplicative service on an incarcerated defendant, causing additional delay and expense even though the same parties, judgment history, property, and dispute are already before this Court. That burden would serve no limitations policy and promote form over substance.

The Court should therefore treat Mr. Katusha's prompt amendment motion as a timely invocation of the statutory savings period and permit the proposed Second Amended Complaint to be filed in this action. But even if the Court concludes that N.J.S.A. 2A:14-28 requires a separate action, the remedy should be procedural, not dispositive. The Court should not deny leave on futility grounds or enter any ruling that the claims are time-barred. At most, the Court should deny amendment without prejudice to Mr. Katusha's immediate filing of a new complaint asserting the preserved claims, with Mr. Katusha thereafter free to seek consolidation or coordinated case management through the ordinary rules. **The important point is that Defendants should not obtain a limitations dismissal based on a purely administrative distinction that has nothing to do with notice, repose, prejudice, or the merits.**

In short, N.J.S.A. 2A:14-28 preserves Plaintiff's right to proceed; Rule 4:9-1 permits that preserved claim to be asserted by amendment in the interest of justice; and judicial economy counsels against an unnecessary new filing that would create expense and delay without serving any substantive purpose. Plaintiff's preferred remedy is amendment. If the

Court concludes a separate action is technically required, the ruling should be procedural only and without prejudice to immediate refiling. What Defendants are not entitled to is a limitations forfeiture.

V. MEASURED AGAINST THE RULE 4:9-1 FUTILITY STANDARD, DEFENDANTS' CLAIM-SPECIFIC LIMITATIONS' ARGUMENTS DO NOT JUSTIFY DENIAL OF LEAVE TO AMEND

Defendants' count-by-count dismissal analysis adds little to their global limitations objection. Each claim-specific argument rests on the same premise: that the limitations period ran uninterrupted from 2019 through the filing of this New Jersey action. For the reasons already addressed, that premise is wrong. Plaintiff timely filed the New York action, pursued it to judgment, filed in New Jersey to enforce that judgment while it remained valid, and moved promptly after Aleksandra and D&A Properties obtained a vacatur for lack of personal jurisdiction. Once the Court applies equitable tolling and N.J.S.A. 2A:14-28, Defendants' attempt to dissect the proposed pleading count by count does not render the amendment futile.

The contract, fiduciary-duty, fraud, and fraudulent-inducement claims are not late-created causes of action based on newly invented facts. They arise from the same claims pled in the New York action and the earlier related New Jersey Chancery filing that sought injunctive relief. Defendants may contest those claims on the merits, but they cannot fairly characterize them as stale claims first asserted in 2026.

Nor does Young v. Schering Corp., 275 N.J. Super. 221 (App. Div. 1994), supply a basis to deny leave. Young involved an amendment that substituted a materially different factual theory after limitations had expired. Plaintiff is doing no such thing here. The proposed Second Amended Complaint does not replace one controversy with another. It asserts in New Jersey the same core dispute that Plaintiff timely pursued in New York and

reduced to judgment before Aleksandra and D&A Properties obtained their jurisdictional vacatur.

The equitable claims are likewise not futile. The constructive trust, declaratory relief, judicial sale, veil-piercing, and alter-ego theories are tied to the Fort Lee property, which remains the central *res* of the dispute. They are not unrelated claims appended to an old controversy; they are the remedial and equitable theories through which Plaintiff seeks to reach the property and entity allegedly used to retain the benefit of his investment. Whether Plaintiff can ultimately prove traceability, domination, unjust enrichment, or entitlement to a particular equitable remedy is not the issue on a motion for leave to amend. Those are merits questions, not futility questions.

Finally, the domestication count pertaining to the New York judgment remains independently viable against Daniel Mizrahi because the New York judgment has not been vacated as to him. Defendants' opposition blurs this essential distinction. It matters because the pending New Jersey action is not a failed case merely because Aleksandra and D&A Properties obtained vacatur in New York. The proposed Second Amended Complaint properly preserves Plaintiff's claims against Daniel and alleges that the New York judgment remains entitled to full faith and credit as to him. (*Daniel was properly served but has failed to appear in this action. Plaintiff intends to move for entry of default against him.*)

The factual context reinforces the point. Daniel is the principal wrongdoer alleged in the pleadings. He allegedly solicited Plaintiff's investment, represented the terms of the Fort Lee project, controlled the renovation, operated through Mizrahi Strategies, and caused D&A Properties to hold the property while Plaintiff's investment was excluded from the title structure. The record also reflects that Daniel is incarcerated and that criminal proceedings and convictions arose from his conduct. Those facts are not offered to adjudicate the merits on this motion, but they explain why Plaintiff's judgment-enforcement path was necessary

and reasonable. Mr. Katusha had a final judgment against Daniel, Daniel did not vacate it, and Mr. Katusha is entitled to proceed against him regardless of the limitations objection raised by Aleksandra and D&A Properties.

In short, Defendants' claim-by-claim analysis merely repackages the same limitations objection already answered by equitable tolling, N.J.S.A. 2A:14-28, and the procedural history of the New York and New Jersey actions. At this stage, they have not shown that the proposed pleading is plainly futile as a matter of law. The motion for leave should therefore be granted.

VI. THE PRIOR NEW JERSEY CHANCERY DISMISSAL WITHOUT PREJUDICE DOES NOT ESTABLISH ABANDONMENT; IT CONFIRMS TIMELY NOTICE AND DILIGENCE

Defendants also point to the earlier New Jersey Chancery action and its dismissal without prejudice. That argument proves too much. The Chancery action was filed in September 2022, while the New York action was pending, and sought injunctive relief when Plaintiff learned that the Fort Lee property had been listed for sale and was believed to be under contract, creating an immediate risk that the property or sale proceeds would be transferred before his rights could be adjudicated with finality in the New York case.

The Chancery dismissal was not a merits adjudication. It was expressly without prejudice and was based on procedural issues relating to the proof-hearing schedule. It did not decide whether: (i) Plaintiff was defrauded; (ii) the investment-property agreement existed; (iii) Plaintiff had an equitable interest in the property; (iv) D&A Properties was an alter ego or instrumentality; or (v) a limitations period barred anything.

Nor did the Chancery dismissal show abandonment. While the Chancery case was pending, Mr. Katusha was actively pursuing the New York litigation. The New York action was the merits track and ultimately produced a judgment. Once that judgment existed,

duplicative merits litigation in New Jersey was unnecessary. Mr. Katusha's focus on the New York action and then on judgment enforcement was reasonable, not dilatory.

Defendants cannot have it both ways. If the initial Chancery action was ancillary or protective, its dismissal did not abandon the merits because the merits were being pursued separately in New York. If the Chancery action was duplicative of the merits, then it supplied additional timely notice and further supports equitable tolling. In neither event does a procedural dismissal without prejudice defeat Plaintiff's current motion in this new action

CONCLUSION

For the foregoing reasons and authorities cited, Plaintiff respectfully requests that the Court grant leave to file the Second Amended Complaint in the interest of justice and premised upon equitable tolling and N.J.S.A. 2A:14-28. Defendants cite no prejudice and there can be none as they were on notice of the claims in 2022, when Plaintiff commenced the New York action.

Alternatively, if the Court concludes that N.J.S.A. 2A:14-28 requires a separate action filed under a new docket number, Plaintiff requests that the Court deny amendment only without prejudice to Plaintiff's immediate filing of a new complaint asserting the preserved claims, and without any finding that the claims are time-barred. Plaintiff can thereafter seek consolidation or coordinated case management through the ordinary rules.

Respectfully submitted,

SHAPIRO CROLAND REISER
APFEL & DI IORIO, LLP
Attorneys for Plaintiff

By: Glenn R. Reiser

Glenn R. Reiser

Dated: May 26, 2026

EXHIBIT A



NYSCEF

New York County Supreme Court

Document List

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Case Caption: **joseph katusha v. daniel mizrahi et al**Judge Name: **Lyle E. Frank**

Doc#	Document Type/Information	Status	Date Received	Filed By
1	SUMMONS	Processed	06/22/2022	Davidoff, J.
2	COMPLAINT	Processed	06/22/2022	Davidoff, J.
3	AFFIRMATION/AFFIDAVIT OF SERVICE aleksandra	Processed	07/22/2022	Davidoff, J.
4	AFFIRMATION/AFFIDAVIT OF SERVICE D&A	Processed	07/22/2022	Davidoff, J.
5	AFFIRMATION/AFFIDAVIT OF SERVICE daniel mizrahi	Processed	07/22/2022	Davidoff, J.
6	AFFIRMATION/AFFIDAVIT OF SERVICE mizrahi corp	Processed	07/22/2022	Davidoff, J.
7	ORDER TO SHOW CAUSE (PROPOSED) (Motion #001)	Processed	08/29/2022	Shapero, D.
8	AFFIDAVIT OR AFFIRMATION IN SUPPORT OF PROPOSED OSC/EXPARTE APP (Motion #001)	Processed	08/29/2022	Shapero, D.
9	EXHIBIT(S) - A (Motion #001) Cashiers Check	Processed	08/29/2022	Shapero, D.
10	EXHIBIT(S) - B (Motion #001) Wire Transfer	Processed	08/29/2022	Shapero, D.
11	EXHIBIT(S) - C (Motion #001) Demand Letter	Processed	08/29/2022	Shapero, D.
12	EXHIBIT(S) - D (Motion #001) Zillow Listing	Processed	08/29/2022	Shapero, D.
13	EXHIBIT(S) - E (Motion #001) Letter to Broker	Processed	08/29/2022	Shapero, D.
14	EXHIBIT(S) - F (Motion #001) Zillow Listing	Processed	08/29/2022	Shapero, D.
15	EXHIBIT(S) - H (Motion #001) Deed	Processed	08/29/2022	Shapero, D.
16	EXHIBIT(S) - I (Motion #001) Property Records	Processed	08/29/2022	Shapero, D.
17	EXHIBIT(S) - J (Motion #001) Bank Records. Redacted	Processed	08/29/2022	Shapero, D.
18	EXHIBIT(S) - K (Motion #001) Indictment	Processed	08/29/2022	Shapero, D.
19	EXHIBIT(S) - L (Motion #001) Indictment	Processed	08/29/2022	Shapero, D.
20	EXHIBIT(S) - M (Motion #001) Indictment	Processed	08/29/2022	Shapero, D.
21	EXHIBIT(S) - N (Motion #001) Indictment	Processed	08/29/2022	Shapero, D.
22	EXHIBIT(S) - O (Motion #001) Notice	Processed	08/29/2022	Shapero, D.



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23	AFFIDAVIT OR AFFIRMATION IN SUPPORT OF PROPOSED OSC/EXPARTE APP (Motion #001)	Processed	08/29/2022	Shapero, D.
24	MEMORANDUM OF LAW IN SUPPORT (Motion #001)	Processed	08/29/2022	Shapero, D.
25	RJI -RE: ORDER TO SHOW CAUSE (Motion #001) Injunction and TRO	Processed	08/29/2022	Shapero, D.
26	ORDER TO SHOW CAUSE (Motion #001)	Processed	08/31/2022	Court User
27	AFFIRMATION/AFFIDAVIT OF SERVICE (Motion #001)	Processed	10/21/2022	Davidoff, J.
28	LETTER / CORRESPONDENCE TO JUDGE (Motion #001) adjournment	Processed	10/21/2022	Davidoff, J.
29	DECISION + ORDER ON MOTION (Motion #001)	Processed	10/26/2022	Court User
30	NOTICE OF ENTRY (Motion #001)	Processed	10/26/2022	Shapero, D.
31	AFFIRMATION additional service alek	Processed	04/04/2023	Davidoff, J.
32	AFFIRMATION additional service D&A	Processed	04/04/2023	Davidoff, J.
33	AFFIRMATION additional service Mizrahi strat	Processed	04/04/2023	Davidoff, J.
34	AFFIRMATION additional service Mizrahi	Processed	04/04/2023	Davidoff, J.
35	ORDER TO SHOW CAUSE (PROPOSED) (Motion #002)	Processed	06/29/2023	Shapero, D.
36	AFFIDAVIT OR AFFIRMATION IN SUPPORT (Motion #002) Attorney Affirmation	Processed	06/29/2023	Shapero, D.
37	AFFIDAVIT OR AFFIRMATION IN SUPPORT (Motion #002) Affidavit of Plaintiff	Processed	06/29/2023	Shapero, D.
38	EXHIBIT(S) - A (Motion #002) Cashiers Check	Processed	06/29/2023	Shapero, D.
39	EXHIBIT(S) - B (Motion #002) Wire Transfer	Processed	06/29/2023	Shapero, D.
40	EXHIBIT(S) - C (Motion #002) Demand to Defendants	Processed	06/29/2023	Shapero, D.
41	EXHIBIT(S) - D (Motion #002) Zillow Listing	Processed	06/29/2023	Shapero, D.
42	EXHIBIT(S) - E (Motion #002) Letter to Broker	Processed	06/29/2023	Shapero, D.
43	EXHIBIT(S) - F (Motion #002) Zillow Listing	Processed	06/29/2023	Shapero, D.



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44	EXHIBIT(S) - G (Motion #002) Deed	Processed	06/29/2023	Shapero, D.
45	EXHIBIT(S) - H (Motion #002) Bank of America Bank Statements	Processed	06/29/2023	Shapero, D.
46	EXHIBIT(S) - I (Motion #002) Summons	Processed	06/29/2023	Shapero, D.
47	EXHIBIT(S) - J (Motion #002) Complaint	Processed	06/29/2023	Shapero, D.
48	EXHIBIT(S) - K (Motion #002) AOS Alek	Processed	06/29/2023	Shapero, D.
49	EXHIBIT(S) - L (Motion #002) AOS Daniel Mizrahi	Processed	06/29/2023	Shapero, D.
50	EXHIBIT(S) - M (Motion #002) AOS D & A	Processed	06/29/2023	Shapero, D.
51	EXHIBIT(S) - N (Motion #002) AOS Mizrahi Strategies	Processed	06/29/2023	Shapero, D.
52	EXHIBIT(S) - O (Motion #002) Notice of Entry and Order. MS 1	Processed	06/29/2023	Shapero, D.
53	EXHIBIT(S) - P (Motion #002) Inspection Report	Processed	06/29/2023	Shapero, D.
54	EXHIBIT(S) - Q (Motion #002) Lis Pendes	Processed	06/29/2023	Shapero, D.
55	EXHIBIT(S) - R (Motion #002) Indictment	Processed	06/29/2023	Shapero, D.
56	EXHIBIT(S) - S (Motion #002) Indictment	Processed	06/29/2023	Shapero, D.
57	EXHIBIT(S) - T (Motion #002) Indictment	Processed	06/29/2023	Shapero, D.
58	EXHIBIT(S) - U (Motion #002) Indictment	Processed	06/29/2023	Shapero, D.
59	EXHIBIT(S) - V (Motion #002) NY Parcels	Processed	06/29/2023	Shapero, D.
60	EXHIBIT(S) - W (Motion #002) Bizapedia.com	Processed	06/29/2023	Shapero, D.
61	MEMORANDUM OF LAW IN SUPPORT (Motion #002)	Processed	06/29/2023	Shapero, D.
62	AFFIRMATION (Motion #002) Certificate of Conformity. Plaintiff Affidavit	Processed	06/29/2023	Shapero, D.
63	DECISION + ORDER ON MOTION (Motion #002)	Processed	06/30/2023	Court User
64	NOTICE OF MOTION (Motion #003)	Processed	06/30/2023	Shapero, D.
65	AFFIDAVIT OR AFFIRMATION IN SUPPORT (Motion #003) Attorney Affirmation	Processed	06/30/2023	Shapero, D.
66	AFFIDAVIT OR AFFIRMATION IN SUPPORT (Motion #003) Plaintiff Affidavit	Processed	06/30/2023	Shapero, D.



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67	EXHIBIT(S) - A (Motion #003) Cashiers Check	Processed	06/30/2023	Shapero, D.
68	EXHIBIT(S) - B (Motion #003) Wire Transfer	Processed	06/30/2023	Shapero, D.
69	EXHIBIT(S) - C (Motion #003) Demand Letter to Defendants	Processed	06/30/2023	Shapero, D.
70	EXHIBIT(S) - D (Motion #003) Zillow Listing	Processed	06/30/2023	Shapero, D.
71	EXHIBIT(S) - E (Motion #003) Letter to Broker	Processed	06/30/2023	Shapero, D.
72	EXHIBIT(S) - F (Motion #003) Zillow Listing	Processed	06/30/2023	Shapero, D.
73	EXHIBIT(S) - G (Motion #003) Deed	Processed	06/30/2023	Shapero, D.
74	EXHIBIT(S) - H (Motion #003) Bank Statements	Processed	06/30/2023	Shapero, D.
75	EXHIBIT(S) - I (Motion #003) Summons	Processed	06/30/2023	Shapero, D.
76	EXHIBIT(S) - J (Motion #003) Complaint	Processed	06/30/2023	Shapero, D.
77	EXHIBIT(S) - K (Motion #003) AOS Alek	Processed	06/30/2023	Shapero, D.
78	EXHIBIT(S) - L (Motion #003) AOS Daniel Mizrahi	Processed	06/30/2023	Shapero, D.
79	EXHIBIT(S) - M (Motion #003) AOS D & A	Processed	06/30/2023	Shapero, D.
80	EXHIBIT(S) - N (Motion #003) AOS Mizrahi Strategies	Processed	06/30/2023	Shapero, D.
81	EXHIBIT(S) - O (Motion #003) Notice of Entry and Order. MS 1	Processed	06/30/2023	Shapero, D.
82	EXHIBIT(S) - P (Motion #003) Inspection Report	Processed	06/30/2023	Shapero, D.
83	EXHIBIT(S) - Q (Motion #003) Lis Pendes	Processed	06/30/2023	Shapero, D.
84	EXHIBIT(S) - R (Motion #003) Indictment	Processed	06/30/2023	Shapero, D.
85	EXHIBIT(S) - S (Motion #003) Indictment	Processed	06/30/2023	Shapero, D.
86	EXHIBIT(S) - T (Motion #003) Indictment	Processed	06/30/2023	Shapero, D.
87	EXHIBIT(S) - U (Motion #003) Indictment	Processed	06/30/2023	Shapero, D.
88	EXHIBIT(S) - V (Motion #003) NY Parcels	Processed	06/30/2023	Shapero, D.
89	EXHIBIT(S) - W (Motion #003) Bizapedia.com	Processed	06/30/2023	Shapero, D.
90	MEMORANDUM OF LAW IN SUPPORT (Motion #003)	Processed	06/30/2023	Shapero, D.



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91	NOTICE OF MOTION (AMENDED) (Motion #003)	Processed	06/30/2023	Shapero, D.
92	AFFIRMATION/AFFIDAVIT OF SERVICE (Motion #003)	Processed	06/30/2023	Davidoff, J.
93	AFFIRMATION/AFFIDAVIT OF SERVICE (Motion #003)	Processed	06/30/2023	Shapero, D.
	Affirmation of Service of Default Judgment Motion			
94	DECISION + ORDER ON MOTION (Motion #003)	Processed	07/14/2023	Court User
95	DECISION + ORDER ON MOTION (Motion #003)	Processed	07/17/2023	Court User
96	DECISION + ORDER ON MOTION (Motion #003)	Processed	07/20/2023	Court User
97	DECISION + ORDER ON MOTION (Motion #003)	Processed	07/31/2023	Court User
98	NOTICE OF ENTRY (Motion #003)	Processed	08/11/2023	Davidoff, J.
99	NOTICE OF ENTRY (Motion #003)	Processed	08/11/2023	Davidoff, J.
100	SERVICE ON SUPREME COURT CLERK (GENL. CLERK) W/COPY OF ORDER Order of Default	Processed	08/11/2023	Shapero, D.
101	SERVICE ON SUPREME COURT CLERK (GENL. CLERK) W/COPY OF ORDER Order of Default with Instructions for Clerk	Processed	08/11/2023	Shapero, D.
102	NOTE OF ISSUE:WITHOUT JURY Note of Issue and Certificate of Readiness	Processed	08/11/2023	Shapero, D.
103	AFFIRMATION/AFFIDAVIT OF SERVICE	Processed	10/24/2023	Amsalam, B.
104	AFFIRMATION/AFFIDAVIT OF SERVICE	Processed	10/24/2023	Amsalam, B.
105	AFFIRMATION/AFFIDAVIT OF SERVICE	Processed	10/25/2023	Amsalam, B.
106	EXHIBIT(S) - A subpoena	Processed	10/25/2023	Amsalam, B.
107	AFFIRMATION/AFFIDAVIT OF SERVICE	Processed	10/26/2023	Amsalam, B.
108	EXHIBIT(S) - A subpoena	Processed	10/26/2023	Amsalam, B.
109	AFFIRMATION/AFFIDAVIT OF SERVICE	Processed	10/27/2023	Amsalam, B.
110	EXHIBIT(S) - A subpoena	Processed	10/27/2023	Amsalam, B.
111	ORDER - OTHER (NON-MOTION) inquest	Processed	11/01/2023	Court User
112	JUDGMENT - (PROPOSED) SUBMIT JUDGMENT PER JUDGES DECISION *Corrected*	Processed	12/12/2023	Davidoff, J.



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113	EXHIBIT(S) - REQUEST TO SEAL - a (Motion #003)	Processed	11/16/2023	Davidoff, J.
114	EXHIBIT(S) - REQUEST TO SEAL - b (Motion #003)	Processed	11/16/2023	Davidoff, J.
115	EXHIBIT(S) - REQUEST TO SEAL - c (Motion #003)	Processed	11/16/2023	Davidoff, J.
116	EXHIBIT(S) - REQUEST TO SEAL - d (Motion #003)	Processed	11/16/2023	Davidoff, J.
117	EXHIBIT(S) - REQUEST TO SEAL - e (Motion #003)	Processed	11/16/2023	Davidoff, J.
118	EXHIBIT(S) - REQUEST TO SEAL - f (Motion #003)	Processed	11/16/2023	Davidoff, J.
119	EXHIBIT(S) - REQUEST TO SEAL - g (Motion #003)	Processed	11/16/2023	Davidoff, J.
120	EXHIBIT(S) - REQUEST TO SEAL - h (Motion #003)	Processed	11/16/2023	Davidoff, J.
121	EXHIBIT(S) - REQUEST TO SEAL - i (Motion #003)	Processed	11/16/2023	Davidoff, J.
122	JUDGMENT -TO COURT (PROPOSED)	Processed	11/16/2023	Davidoff, J.
123	ORDER - OTHER (NON-MOTION) JUDGMENT	Processed	11/28/2023	Court User
124	JUDGMENT - MONEY	Processed	12/12/2023	Court User
125	NOTICE OF APPEARANCE (POST RJI)	Processed	04/04/2024	Himmel, A.
126	NOTICE OF MOTION (Motion #004)	Processed	04/04/2024	Himmel, A.
127	AFFIDAVIT OR AFFIRMATION IN SUPPORT OF MOTION (Motion #004) Attorney Affirmation of Andrew D. Himmel	Processed	04/04/2024	Himmel, A.
128	EXHIBIT(S) - A (Motion #004) Summons and Complaint	Processed	04/04/2024	Himmel, A.
129	EXHIBIT(S) - B (Motion #004) Affidavit of Service on D&A	Processed	04/04/2024	Himmel, A.
130	EXHIBIT(S) - C (Motion #004) Katusha Affidavit 8.26.22	Processed	04/04/2024	Himmel, A.
131	EXHIBIT(S) - D (Motion #004) Katusha Affidavit 6.9.23	Processed	04/04/2024	Himmel, A.
132	EXHIBIT(S) - E (Motion #004) New Jersey Complaint	Processed	04/04/2024	Himmel, A.
133	EXHIBIT(S) - F (Motion #004) Katusha New Jersey Lis Pendens	Processed	04/04/2024	Himmel, A.
134	EXHIBIT(S) - G (Motion #004) Judgment of Default	Processed	04/04/2024	Himmel, A.
135	AFFIDAVIT OR AFFIRMATION IN SUPPORT OF MOTION (Motion #004) Affidavit of Aleksandra	Processed	04/04/2024	Himmel, A.



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136	EXHIBIT(S) - A (Motion #004) Group Text and Photo	Processed	04/04/2024	Himmel, A.
137	EXHIBIT(S) - B (Motion #004) Katasha Texts to Aleksandra	Processed	04/04/2024	Himmel, A.
138	MEMORANDUM OF LAW IN SUPPORT (Motion #004)	Processed	04/04/2024	Himmel, A.
139	STIPULATION - ADJOURNMENT OF MOTION -IN SUBMISSIONS PART -RM 130 (Motion #004)	Processed	04/15/2024	Shapero, D.
140	STIPULATION - ADJOURNMENT OF MOTION -IN SUBMISSIONS PART -RM 130 (Motion #004)	Processed	05/08/2024	Shapero, D.
141	STIPULATION - ADJOURNMENT OF MOTION -IN SUBMISSIONS PART -RM 130 (Motion #004)	Processed	06/10/2024	Shapero, D.
142	COURT NOTICE (Motion #004)	Processed	06/20/2024	Court User
143	ADJOURNMENT OF MOTION -REQUEST -IN SUBMISSIONS PART -RM 130 (Motion #004) so ordered	Processed	06/24/2024	Court User
144	LETTER / CORRESPONDENCE TO JUDGE (Motion #004)	Pending	07/09/2024	Davidoff, J.
145	STIPULATION - OTHER - (REQUEST TO SO ORDER) (Motion #004) Stipulation to adjourn	Processed	07/11/2024	Shapero, D.
146	ADJOURNMENT OF MOTION -REQUEST -IN SUBMISSIONS PART -RM 130 (Motion #004) so ordered	Processed	07/12/2024	Court User
147	AFFIDAVIT OR AFFIRMATION IN OPPOSITION TO MOTION AND IN SUPPORT OF CROSS-MOTION (Motion #004)	Processed	07/30/2024	Shapero, D.
148	EXHIBIT(S) - A (Motion #004) Wire Transfer	Processed	07/30/2024	Shapero, D.
149	EXHIBIT(S) - B (Motion #004) Citi Bank Statements	Processed	07/30/2024	Shapero, D.
150	EXHIBIT(S) - C (Motion #004) Contract for Sale of Property	Processed	07/30/2024	Shapero, D.
151	EXHIBIT(S) - D (Motion #004) Notice of Lis Pendens	Processed	07/30/2024	Shapero, D.
152	EXHIBIT(S) - E (Motion #004) Indictment	Processed	07/30/2024	Shapero, D.
153	EXHIBIT(S) - F (Motion #004) Indictment	Processed	07/30/2024	Shapero, D.
154	EXHIBIT(S) - G (Motion #004) Letter to Broker	Processed	07/30/2024	Shapero, D.
155	EXHIBIT(S) - H (Motion #004) Email	Processed	07/30/2024	Shapero, D.



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156	EXHIBIT(S) - I (Motion #004) Email	Processed	07/30/2024	Shapero, D.
157	EXHIBIT(S) - J (Motion #004) Email	Processed	07/30/2024	Shapero, D.
158	EXHIBIT(S) - K (Motion #004) Letter to Court	Processed	07/30/2024	Shapero, D.
159	EXHIBIT(S) - L (Motion #004) AOS. NJ Action	Processed	07/30/2024	Shapero, D.
160	EXHIBIT(S) - M (Motion #004) Text Messages	Processed	07/30/2024	Shapero, D.
161	EXHIBIT(S) - N (Motion #004) Tahari Action Service Attempts	Processed	07/30/2024	Shapero, D.
162	EXHIBIT(S) - O (Motion #004) Tahari Action Complaint	Processed	07/30/2024	Shapero, D.
163	EXHIBIT(S) - P (Motion #004) Default. Tahari Action	Processed	07/30/2024	Shapero, D.
164	EXHIBIT(S) - Q (Motion #004) Stop Work Order	Processed	07/30/2024	Shapero, D.
165	EXHIBIT(S) - R (Motion #004) Car Insurance Card	Processed	07/30/2024	Shapero, D.
166	EXHIBIT(S) - S (Motion #004) Indictment	Processed	07/30/2024	Shapero, D.
167	EXHIBIT(S) - T (Motion #004) Moldovan notice of appearance	Processed	07/30/2024	Shapero, D.
168	EXHIBIT(S) - U (Motion #004) Email	Processed	07/30/2024	Shapero, D.
169	EXHIBIT(S) - V (Motion #004) BoA Signature Card	Processed	07/30/2024	Shapero, D.
170	EXHIBIT(S) - W (Motion #004) Decision and Order	Processed	07/30/2024	Shapero, D.
171	EXHIBIT(S) - X (Motion #004) Motion for Service by Publication	Processed	07/30/2024	Shapero, D.
172	EXHIBIT(S) - Y (Motion #004) Decision and Order	Processed	07/30/2024	Shapero, D.
173	EXHIBIT(S) - Z (Motion #004) Deafult Final Judgment. Miami Florida	Processed	07/30/2024	Shapero, D.
174	EXHIBIT(S) - AA (Motion #004) Foreclosure Complaint	Processed	07/30/2024	Shapero, D.
175	EXHIBIT(S) - BB (Motion #004) Default. Miami Florida	Processed	07/30/2024	Shapero, D.
176	EXHIBIT(S) - CC (Motion #004) Complaint. Florida Action	Processed	07/30/2024	Shapero, D.
177	EXHIBIT(S) - DD (Motion #004) Chase Bank Statements	Processed	07/30/2024	Shapero, D.
178	EXHIBIT(S) - EE (Motion #004) indictment. EDNY	Processed	07/30/2024	Shapero, D.
179	AFFIRMATION (Motion #004) Danielle Shapero, Affirmation	Processed	07/30/2024	Shapero, D.



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180	AFFIDAVIT OR AFFIRMATION IN OPPOSITION TO MOTION AND IN SUPPORT OF CROSS-MOTION (Motion #004) Jonathan Davidoff, Affirmation	Processed	07/30/2024	Shapero, D.
181	MEMORANDUM IN OPPOSITION TO MOTION AND IN SUPPORT OF CROSS-MOTION (Motion #004) *Corrected*	Processed	07/31/2024	Shapero, D.
182	NOTICE OF CROSS-MOTION (Motion #004)	Processed	07/30/2024	Davidoff, J.
183	MEMORANDUM OF LAW IN REPLY (Motion #004) Defendants' Reply Memorandum of Law	Processed	08/15/2024	Himmel, A.
184	AFFIDAVIT OR AFFIRMATION IN REPLY (Motion #004) Reply Affirmation of Andrew D. Himmel	Processed	08/15/2024	Himmel, A.
185	EXHIBIT(S) - A (Motion #004) New York Complaint	Processed	08/15/2024	Himmel, A.
186	EXHIBIT(S) - B (Motion #004) New Jersey Complaint	Processed	08/15/2024	Himmel, A.
187	EXHIBIT(S) - C (Motion #004) New Jersey Dismissal Order	Processed	08/15/2024	Himmel, A.
188	EXHIBIT(S) - D (Motion #004) New Jersey Denial of Reconsideration	Processed	08/15/2024	Himmel, A.
189	EXHIBIT(S) - E (Motion #004) New Jersey Letter Order Oct. 11, 2022	Processed	08/15/2024	Himmel, A.
190	EXHIBIT(S) - F (Motion #004) New Jersey Orders and Notices	Processed	08/15/2024	Himmel, A.
191	EXHIBIT(S) - G (Motion #004) New Jersey Lis Pendens	Processed	08/15/2024	Himmel, A.
192	DECISION + ORDER ON MOTION (Motion #004)	Returned For Correction	12/18/2024	Court User
193	DECISION + ORDER ON MOTION (Motion #004)	Returned For Correction	12/18/2024	Court User
194	DECISION + ORDER ON MOTION (Motion #004)	Processed	12/31/2024	Court User
195	LETTER / CORRESPONDENCE TO JUDGE (Motion #004) Extension of Time upon consent. Jurisdictional Discovery	Pending	01/27/2025	Shapero, D.
196	STIPULATION - DISCOVERY (REQUEST TO SO ORDER) (Motion #004)	Processed	01/27/2025	Shapero, D.
197	STIPULATION - SO ORDERED (Motion #004) So Ordered	Processed	01/28/2025	Court User
198	RESPONSE TO DEMAND	Processed	02/23/2025	Davidoff, J.
199	NOTICE OF DEPOSITION UPON ORAL EXAMINATION	Processed	02/24/2025	Davidoff, J.



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200	NOTICE OF DEPOSITION/SUBPOENA	Processed	02/24/2025	Davidoff, J.
201	STIPULATION - DISCOVERY (REQUEST TO SO ORDER) (Motion #004)	Processed	02/26/2025	Shapero, D.
202	STIPULATION - DISCOVERY So Ordered	Processed	02/27/2025	Court User
203	NOTICE OF DEPOSITION/SUBPOENA Notice of Subpoena Duces Tecum	Processed	03/20/2025	Himmel, A.
204	AFFIRMATION/AFFIDAVIT OF SERVICE Affidavit of Service on NY Secretary of State	Processed	03/20/2025	Himmel, A.
205	NOTICE OF DEPOSITION UPON ORAL EXAMINATION	Processed	04/21/2025	Shapero, D.
206	NOTICE OF DEPOSITION UPON ORAL EXAMINATION	Processed	05/13/2025	Shapero, D.
207	NOTICE OF DEPOSITION UPON ORAL EXAMINATION Amended Notice of Deposition	Processed	06/13/2025	Shapero, D.
208	NOTICE OF DEPOSITION UPON ORAL EXAMINATION	Processed	06/18/2025	Davidoff, J.
209	STIPULATION - BRIEFING SCHEDULE (Motion #004)	Processed	07/15/2025	Shapero, D.
210	STIPULATION - BRIEFING SCHEDULE (Motion #004)	Processed	08/28/2025	Shapero, D.
211	AFFIDAVIT OR AFFIRMATION IN SUPPORT OF MOTION (Motion #004) Attorney Affirmation - In Support of Supplemental JxD Brief	Processed	10/21/2025	Shapero, D.
212	AFFIDAVIT (Motion #004) Katusha Declaration - In Support of Supplemental JxD Brief	Processed	10/21/2025	Shapero, D.
213	EXHIBIT(S) - A (Motion #004) Doc Requests from Plaintiff	Processed	10/21/2025	Shapero, D.
214	EXHIBIT(S) - B (Motion #004) Alek Deposition Transcript	Processed	10/21/2025	Shapero, D.
215	EXHIBIT(S) - C (Motion #004) Text Messages	Processed	10/21/2025	Shapero, D.
216	EXHIBIT(S) - D (Motion #004) Business Card	Processed	10/21/2025	Shapero, D.
217	EXHIBIT(S) - E (Motion #004) D&A Corporate Documents	Processed	10/21/2025	Shapero, D.
218	EXHIBIT(S) - F (Motion #004) Deed	Processed	10/21/2025	Shapero, D.



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219	EXHIBIT(S) - G (Motion #004) Tahari Complaint	Processed	10/21/2025	Shapero, D.
220	EXHIBIT(S) - H (Motion #004) Daniel Affidavit - Tahari Action	Processed	10/21/2025	Shapero, D.
221	EXHIBIT(S) - I (Motion #004) NJ Indictments	Processed	10/21/2025	Shapero, D.
222	EXHIBIT(S) - J (Motion #004) NY Indictments	Processed	10/21/2025	Shapero, D.
223	EXHIBIT(S) - K (Motion #004) Text Messages	Processed	10/21/2025	Shapero, D.
224	EXHIBIT(S) - L (Motion #004) Tsunami Sunbiz Case Detail	Processed	10/21/2025	Shapero, D.
225	EXHIBIT(S) - M (Motion #004) BM Holdings. Sun Biz Detail	Processed	10/21/2025	Shapero, D.
226	EXHIBIT(S) - N (Motion #004) Text Messages	Processed	10/21/2025	Shapero, D.
227	EXHIBIT(S) - O (Motion #004) Alex W2s (redacted by Moving Defendants)	Processed	10/21/2025	Shapero, D.
228	EXHIBIT(S) - P (Motion #004) Alek Affidavit	Processed	10/21/2025	Shapero, D.
229	EXHIBIT(S) - Q (Motion #004) NY EDNY Superseding Information	Processed	10/21/2025	Shapero, D.
230	EXHIBIT(S) - R (Motion #004) New York Inmate	Processed	10/21/2025	Shapero, D.
231	EXHIBIT(S) - S (Motion #004) letter re forfeiture. Dany EDNY.	Processed	10/21/2025	Shapero, D.
232	EXHIBIT(S) - T (Motion #004) Zillow Listing	Processed	10/21/2025	Shapero, D.
233	EXHIBIT(S) - U (Motion #004) Photos of Property	Processed	10/21/2025	Shapero, D.
234	EXHIBIT(S) - V (Motion #004) Contract for Sale of Property	Processed	10/21/2025	Shapero, D.
235	EXHIBIT(S) - W (Motion #004) Notices of Lis Pendens	Processed	10/21/2025	Shapero, D.
236	EXHIBIT(S) - X (Motion #004) Dany Affidavit	Processed	10/21/2025	Shapero, D.
237	EXHIBIT(S) - Y (Motion #004) Foreclosure Complaint	Processed	10/21/2025	Shapero, D.
238	EXHIBIT(S) - Z (Motion #004) Default - Miami Action	Processed	10/21/2025	Shapero, D.
239	EXHIBIT(S) - AA (Motion #004) Default Judgment - Federal Court	Processed	10/21/2025	Shapero, D.
240	EXHIBIT(S) - BB (Motion #004) Final Judgment by Default - Florida	Processed	10/21/2025	Shapero, D.
241	EXHIBIT(S) - CC (Motion #004) Default Judgment - Florida	Processed	10/21/2025	Shapero, D.
242	MEMORANDUM OF LAW (Motion #004) Memorandum of Law - Supplemental JxD Brief	Processed	10/21/2025	Shapero, D.



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243	STIPULATION - BRIEFING SCHEDULE (Motion #004)	Processed	11/17/2025	Himmel, A.
244	MEMORANDUM OF LAW IN SUPPORT (Motion #004) Moving Defendants' Supplemental Memorandum of Law	Processed	11/25/2025	Himmel, A.
245	AFFIDAVIT OR AFFIRMATION IN SUPPORT OF MOTION (Motion #004) Supplemental Affirmation of Andrew Himmel	Processed	11/25/2025	Himmel, A.
246	EXHIBIT(S) - A (Motion #004) Ocean Parkway, Brooklyn Lease Documents	Processed	11/25/2025	Himmel, A.
247	LETTER / CORRESPONDENCE TO JUDGE (Motion #004) Letter to Court - Motion Fully Briefed	Pending	01/23/2026	Shapero, D.
248	LETTER / CORRESPONDENCE TO JUDGE (Motion #004)	Pending	03/25/2026	Davidoff, J.
249	LETTER / CORRESPONDENCE TO JUDGE (Motion #004)	Pending	03/26/2026	Himmel, A.
250	DECISION + ORDER ON MOTION (Motion #004)	Processed	03/31/2026	Court User
251	NOTICE OF ENTRY (Motion #004)	Processed	04/02/2026	Himmel, A.
252	SERVICE ON SUPREME COURT CLERK (GENL. CLERK) W/COPY OF ORDER (Motion #004)	Processed	04/02/2026	Himmel, A.
253	NOTICE TO COUNTY CLERK CPLR 8019(C) (Motion #004)	Pending	04/09/2026	Himmel, A.