

**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. DAVID B. COHEN PART 58

Justice

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PEOPLE OF THE STATE OF NEW YORK, BY LETITIA
JAMES, ATTORNEY GENERAL OF THE STATE OF NEW
YORK

Petitioner,

- v -

BETTINA EQUITIES MANAGEMENT, LLC,

Respondent.

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INDEX NO. 450023/2025

MOTION DATE 05/23/2025,
05/15/2025

MOTION SEQ. NO. 003 004

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 003) 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 100, 101, 102, 103, 105, 106

were read on this motion to/for RENEW/REARGUE/RESETTLE/RECONSIDER .

The following e-filed documents, listed by NYSCEF document number (Motion 004) 72, 73, 74, 75, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 104

were read on this motion to/for VACATE - DECISION/ORDER/JUDGMENT/AWARD.

Respondent seeks an order vacating a prior order which permitted the tolling of the statute of limitations on any potential claim that petitioner may have against respondent (mot. seq. 003) and vacating the tolling language in a different court order and declaring that the court lacks the power to toll a statute of limitations here (mot. seq. 004). Petitioner opposes.

This proceeding seeks to compel respondent’s compliance with an investigatory subpoena issued by petitioner to respondent in connection with petitioner’s investigation into allegations of housing discrimination and unlawful debt collection practices by respondent.

After the subpoena was served in March 2024, petitioner asserts that to date, respondent has not fully responded, although it has produced some relevant documents.

After oral argument was held in February 2025 on petitioner’s application to compel respondent’s compliance with the subpoena, the petition was granted, and, at petitioner’s request,

any applicable statute of limitations was tolled from the date of filing of the petition until March 31, 2025. Subsequent orders have further tolled the statute of limitations.

Respondent contends that a court has no power or authority to toll a statute of limitations, citing CPLR 201 and relevant caselaw. Petitioner argues that the court may toll a statute of limitations pursuant to equitable principles, in the form of equitable tolling or estoppel.

Petitioner asserts that such equitable relief is appropriate here as respondent's refusal to comply with the subpoena since March 2024 has prevented petitioner from filing a lawsuit against it, as it does not have the records necessary to support its claims against respondent. Respondent replies that equitable tolling does not apply in the circumstances at issue here, especially as any delay has been caused by petitioner's prolix requests for thousands of documents.

CPLR 201 explicitly bars a court from extending a statute of limitations. Nevertheless, a toll may be granted or imposed when, as pertinent here, the defendant actively misleads the plaintiff, or the plaintiff in some extraordinary way is prevented from complying with the limitations period; this type of toll is referred to as equitable tolling or estoppel (2B Carmody-Wait 2d 13:358 [2025]).

In terms of equitable estoppel, a plaintiff must establish that: (1) the defendant intentionally made affirmative misrepresentations that concealed the existence of the claim from the plaintiff, (2) the defendant's concealment occurred subsequent to the wrong being sued upon, (3) the plaintiff reasonably relied on the defendant's deception in failing to commence a timely action, and (4) the plaintiff commenced the lawsuit with due diligence after learning the truth (Vincent C. Alexander, Practice Commentaries, McKinney's Cons Laws of NY, CPLR C201:11 [2024]).

In *Putter v N. Shore Univ Hosp.*, the Court of Appeals held that “equitable estoppel is appropriate where the plaintiff is prevented from filing an action within the applicable statute of limitations due to his or her reasonable reliance on deception, fraud or misrepresentations by the defendant” (7 NY3d 552-553 [2006]). In that case, the plaintiff did not timely commence a medical malpractice lawsuit, but the Court held that equitable tolling or estoppel was inappropriate as the plaintiff had sufficient information to investigate whether there was a basis for his malpractice claim but he failed to do so. The Court also held that further discovery on the issue was unnecessary as the plaintiff “had sufficient timely knowledge of the facts, was aware of the basis of a cause of action within the applicable statute of limitations, and failed to bring a timely suit” (*id.* at 554).

Here too, petitioner was aware of the basis of a claim against respondent since before it issued the subpoena in March 2024, having received multiple complaints about respondent. As petitioner alleges that respondent did not initially comply with the subpoena and has produced inadequate documentation, petitioner does not identify any conduct by respondent that may be deemed deception, fraud, or misrepresentations.

Petitioner relies on *Kamruddin v Desmond* for the proposition that equitable estoppel may be found when records are material to reaching a decision as to whether there are grounds to a lawsuit and the defendant withholds the records (293 AD2d 714 [2d Dept 2002]). There, the Court held that the defendant’s failure to produce medical records prevented the plaintiff from commencing a medical malpractice claim, which the Court found constituted intentional misconduct, thus warranting the application of equitable estoppel. However, the Court observed that medical records are material to figuring out whether a malpractice claim may be asserted, citing to two other cases also involving malpractice claims, including *Arbutina v Bahuleyan*, 75

AD2d 84, 87 (4th Dept 1980). In *Arbutina*, the Court found that “an unreasonable delay in delivering hospital records to an attorney consulted in a suspected case of malpractice may result in defendants being estopped from later asserting the Statute of Limitations if the delay prevented the timely commencement of an action.”

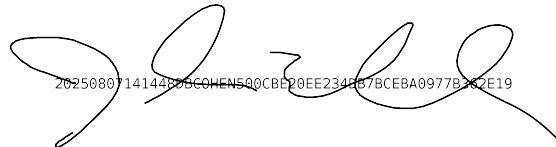
There appear to be no cases applying equitable estoppel in cases that did not involve malpractice, and petitioner cites none. Indeed, to countenance petitioner’s expansion of the holding of the malpractice cases to other cases and in circumstances where the defendant delayed in complying with a subpoena would undermine the idea that equitable estoppel “is an extraordinary remedy that should be ‘invoked sparingly and only under exceptional circumstances’” (*Arbutina*, 151 AD2d at 992 [citations omitted]).

Accordingly, it is hereby

ORDERED that respondent’s motion to vacate the portions of this court’s orders tolling the statute of limitations in this action is granted (seq. 004); and it is further

ORDERED that respondent’s motion for leave to reargue is denied as academic (seq. 003).

8/7/2025
DATE



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DAVID B. COHEN, J.S.C.

CHECK ONE:

CASE DISPOSED
GRANTED DENIED
SETTLE ORDER
INCLUDES TRANSFER/REASSIGN

NON-FINAL DISPOSITION
GRANTED IN PART OTHER
SUBMIT ORDER
FIDUCIARY APPOINTMENT REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: