

APPENDIX A

COUNTY OF New York

REDACTION COVER PAGE

Revised 01/2016

State of New York

Court of Appeals

*Decided and Entered on the
sixth day of September, 2018*

Present, Hon. Janet DiFiore, *Chief Judge, presiding.*

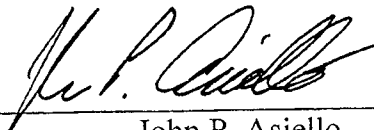
Mo. No. 2018-405
Deidre Holmes Clark,
Appellant,
v.
Allen & Overy, LLP,
Respondent.

Appellant having moved for leave to appeal to the Court of Appeals in the
above cause;

Upon the papers filed and due deliberation, it is

ORDERED, that the motion for leave to appeal, insofar as it seeks leave to
appeal from the portion of the Appellate Division order that affirmed the parts of the
August 2016 Supreme Court order dismissing the complaint and awarding sanctions
for frivolous conduct, is denied; and it is further

ORDERED, that the motion for leave to appeal is otherwise dismissed upon
the ground that the remaining portions of the Appellate Division order do not finally
determine the action within the meaning of the Constitution.



John P. Asiello
Clerk of the Court



*State of New York
Court of Appeals*

*John P. Asiello
Chief Clerk and
Legal Counsel to the Court*

*Clerk's Office
20 Eagle Street
Albany, New York 12207-1095*

Decided September 6, 2018

Mo. No. 2018-405

Deidre Holmes Clark,
Appellant,

v.

Allen & Overy, LLP,
Respondent.

Motion, insofar as it seeks leave to appeal from the portion of the Appellate Division order that affirmed the parts of the August 2016 Supreme Court order dismissing the complaint and awarding sanctions for frivolous conduct, denied; motion for leave to appeal otherwise dismissed upon the ground that the remaining portions of the Appellate Division order do not finally determine the action within the meaning of the Constitution.

DEIDRE HOLMES CLARK,
Plaintiff,
against
ALLEN & OVERY LLP,
Defendant.

ALLISON L. MARTIN, an attorney duly admitted to practice before the Courts of the State of New York, affirms pursuant to penalties of perjury, as follows:

1. I am an Associate at Proskauer Rose LLP, attorneys for Defendant Allen & Overy LLP, and as such I am fully familiar with the facts and circumstances recited herein.
2. I am over eighteen years of age, I am not a party to this action, and I reside in Hoboken, New Jersey.
3. On October 10, 2018, I caused to be served one copy of the foregoing Notice of Entry and Decision and Order of the State of New York, Court of Appeals, duly entered in the Office of the Clerk of the Court of Appeals on September 6, 2018, on Plaintiff by overnight mail at the following address:

Deidre Clark, Esq.
2803 Noyac Road
Sag Harbor, New York, 11963
Plaintiff, *Pro Se*

Dated: October 10, 2018
New York, New York

ALLISON L. MARTIN

APPENDIX B



Document: Clark v. Allen & Overy, LLP, 2018 N.Y. App. Div. LEXIS 1488 Actions ▾

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**Clark v. Allen & Overy, LLP, 2018 N.Y. App. Div. LEXIS 1488****Copy Citation**

Supreme Court of New York, Appellate Division, First Department

March 8, 2018, Decided; March 8, 2018, Entered

106717/11, 5945A, 5945

Reporter**2018 N.Y. App. Div. LEXIS 1488** * | [2018 NY Slip Op 01558](#) **[\[**1\]](#) Deidre Holmes **Clark**, Plaintiff-Appellant, v **Allen & Overy**, LLP, Defendant-Respondent.

Notice: THE LEXIS PAGINATION OF THIS DOCUMENT IS SUBJECT TO CHANGE PENDING RELEASE OF THE FINAL PUBLISHED VERSION. THIS OPINION IS UNCORRECTED AND SUBJECT TO REVISION BEFORE PUBLICATION IN THE OFFICIAL REPORTS.

Core Terms

defense motion, sanctions, costs, court properly, renewal motion, court order, audiotaped, undergo, Orders, seal, sit

Counsel: [\[*1\]](#) Deidre Holmes Clark, appellant, Pro se.[Proskauer Rose LLP](#) ▾, New York ([Rachel S. Fischer](#) ▾ of counsel), for respondent.**Judges:** [Sweeny](#) ▾, J.P., [Manzanet-Daniels](#) ▾, [Mazzarelli](#) ▾, [Oing](#) ▾, [Moulton](#) ▾, JJ.**Opinion**

Orders, Supreme Court, New York County ([Kathryn E. Freed](#) ▾, J.), entered August 19, 2016, which, inter alia, denied plaintiff's motion to renew defendant's motion to place the file under seal, denied as moot plaintiff's motion to reargue a September 29, 2015 compliance conference order setting forth "Additional Directives," and granted defendant's motions to dismiss the complaint pursuant to [CPLR 3126](#) and for sanctions, and directed plaintiff to pay \$5,000 to the Lawyers' Fund for Client Protection pursuant to [22 NYCRR 130-1.1\(a\)](#) and to pay defendant its costs and attorneys' fees incurred in bringing the motion for sanctions, unanimously affirmed, without costs, as to plaintiff's motion to renew and defendant's motions, and appeal therefrom otherwise dismissed, without costs, as taken from a nonappealable order.

Contrary to plaintiff's contention, she failed to comply with a court order that she undergo an independent medical examination (IME order). Plaintiff appealed from the IME order, and this Court affirmed (see [Clark v Allen & Overy, LLP](#), 125 AD3d 497, 4 N.Y.S.3d 20 [1st Dept 2015], lv dismissed 25 NY3d 1015, 10 N.Y.S.3d 507, 32 N.E.3d 942 [2015], cert [\[*2\]](#) denied U.S. , 136 S. Ct. 553, 193 L. Ed. 2d 442 [2015]). Nevertheless, plaintiff continued to refuse to schedule or sit for the IME. At a compliance conference held on September 29, 2015, the court ordered plaintiff to undergo an audiotaped IME on November 11, 2015, or face sanctions, including the dismissal of the complaint. On November 11, 2105, plaintiff appeared at the examiner's office. However, she refused to take the

microphone to be audiotaped, and she informed the examiner that she would go to the police and charge him with false imprisonment and assault if he proceeded with the examination without her consent. The examiner stopped the examination. Under the circumstances, the court properly dismissed the complaint for noncompliance pursuant to CPLR 3126 (see generally Muboyayi v Quintero, 136 AD3d 497, 24 N.Y.S.3d 642 [1st Dept 2016], *lv dismissed in part, denied in part* 27 NY3d 1046, 33 N.Y.S.3d 870, 53 N.E.3d 749 [2016]).

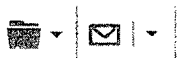
The court properly imposed financial sanctions on plaintiff for frivolous conduct pursuant to 22 NYCRR 130-1.1. Defendant submitted evidence that plaintiff violated the court's sealing orders by posting about the case to her social media networks in an effort to "harass or maliciously injure [defendant]" (22 NYCRR 130-1.1[c][2]). Moreover, in her opposition to defendant's motion to strike the note of issue, plaintiff falsely represented that she had not refused to **[*3]** sit for the IME and that discovery had been waived (see 22 NYCRR 130-1.1[c][3]).

The denial of a motion for reargument is not appealable (Sicoli v Riverside Ctr. Parcel 2 Bit Assoc., LLC, 150 AD3d 607, 52 N.Y.S.3d 633 [1st Dept 2017]).

We have considered plaintiff's remaining arguments and find them unavailing.

THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: MARCH 8, 2018



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