

Supreme Court of the State of New York

Appellate Division, First Judicial Department

Kapnick, J.P., Oing, Scarpula, Shulman, JJ.

11976-	WAYNE WHITE,	Index No. 158095/16
11977N-	Plaintiff-Appellant,	Case No. 2020-01489
11977NA		2020-02158
	-against-	2020-02159

THE CITY OF NEW YORK, et al.,
Defendants-Respondents.

Pollack, Pollack, Isaac & DeCicco, LLP, New York (Brian J. Isaac of counsel), for appellant.

Miranda Slone Sklarin Verveniotis LLP, Mineola (Michael A. Bayron of counsel), for The City of New York, respondent.

Heidell Pittoni Murphy & Bach, LLP, Garden City (Daniel Lei of counsel), for Project Renewal, Inc., respondent.

Judgments, Supreme Court, New York County (Arlene P. Bluth, J.), entered February 18, 2020, dismissing the complaint, unanimously affirmed, without costs. Appeals from orders, same court and Justice, entered September 17, 2019, which denied plaintiff's motions to restore the case to active status and extend its time to file a note of issue and to vacate a prior order, entered June 6, 2019, which dismissed the complaint, unanimously dismissed, without costs, as subsumed in the appeal from the judgments.

The court providently exercised its discretion in dismissing the complaint after plaintiff violated multiple orders to produce documentary discovery over the course of approximately 1½ years and finally failed to comply with the orders even after the court had, over defendants' rigorous objections, given him "one last chance" (*see Kihl v Pfeffer*, 94 NY2d 118, 122 [1999]; *see also Husovic v Structure Tone, Inc.*, 171 AD3d 559

[1st Dept 2019]). Notably, plaintiff failed to support either his motion to restore or his motion to vacate with an excuse for his repeated failure to comply or a demonstration of a meritorious claim (*see Kamara v Ambert*, 89 AD3d 612 [1st Dept 2011]; *Gal-Ed v 153rd St. Assoc., LLC*, 73 AD3d 438, 438 [1st Dept 2010]).

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

ENTERED: October 6, 2020

A handwritten signature in black ink, appearing to read "Susanna Molina Rojas". The signature is written in a cursive, flowing style.

Susanna Molina Rojas
Clerk of the Court