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Attorney Ordered To Pay \$3,450 In Sanctions

BY BRENDAN PIERSON

Manhattan attorney Kenneth L. Kutner has been ordered to pay \$3,450 in sanctions for repeatedly trying to enforce a judgment after being told it was in error.

The sanctions arose from a settlement in a lawsuit filed by a co-op owner, Susan Flanders, against a contractor, X-Act Contracting, over an allegedly botched renovation X-Act agreed to settle the case for \$5,000 to be paid in six installments.

In May 2012, Kutner, Flanders' attorney, told X-Act that it had failed to make its third installment of \$750. X-Act's attorney, **Paul Solda**, responded that the company had made the payment. Regardless, Kutner filed a judgment of \$8,782.50, which included attorneys fees against X-Act for default, and was granted the judgment in August 2012.

In March 2013, **Solda** produced documents showing that X-Act had, in fact, made all payments before they were due, and accused Kutner of engaging in "willful and contumacious legal

misconduct" by filing the judgment and failing to acknowledge X-Act's responses.

Kutner countered that the documentation was "illegible" and issued a restraining notice on the company's bank account. X-Act filed a motion to vacate the judgment and sanction Kutner.

Civil Court Judge Jennifer Schechter in *Flanders v. X-Act Contracting*, TS 300372/10, granted. X-Act's motion and ordered Kutner to pay the sanctions in March, finding that his conduct was frivolous.

"It's not your ordinary sanctions decision," **Solda** said. "It sends a clear message to attorneys: don't do something like this or you will be punished."

Kutner said he planned to appeal. "It's the most unreasonable thing I've ever seen in 33 years of practicing law," he said. "In my view, I didn't do anything wrong. I asked the other attorney to send a clear document... and for that I was sanctioned."