

1746 E13 St., LLC v Khaimov
2025 NY Slip Op 35254(U)
December 22, 2025
Supreme Court, Kings County
Docket Number: Index No. 525824/2019
Judge: Francois A. Rivera
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At an IAS Term, Part 52 of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse, at Civic Center, Brooklyn, New York, on the 22nd day of December 2025

HONORABLE FRANCOIS A. RIVERA

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1746 E13 STREET LLC, 5601 14TH AVE LLC,
6801 21 AVE LLC, 6301 23 AVE LLC, INDEX NO.:
1350 54TH STREET LLC, 690 OCEAN PKW LLC,
3051 OCEAN AVE LLC, OSGOOD LLC
57-63 WADSWORTH LLC, 261 WADSWORTH LLC

Plaintiffs,

- against -

ITOMOR KHAIMOV, a/k/a ANTHONY
MARCHELLO, a/k/a TONY MARCHELLO,
a/k/a TOMMY KERSH

Defendant.

DECISION & ORDER

Index No.: 525824/2019

Oral Argument: 12/12/2025

Ms. 23

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Recitation in accordance with CPLR 2219 (a) of the papers considered on the order to show cause filed on November 5, 2025, under motion sequence number twenty-three, by defendant Itomor Khaimov, a/k/a Anthony Marchello, a/k/a Tony Marchello, a/k/a Tommy Kersh (hereinafter Defendant) for an order:

1. Vacating, rescinding, and setting aside the Interim Order dated October 1, 2025 (NYSCEF Doc. No. 809), entered sua sponte and without notice, hearing, or opportunity to respond, in violation of CPLR 2214 (b), 5015 (a) (1), (3), (4), 2221 (d), and the fundamental requirements of due process;
2. Granting an immediate stay of enforcement, operation, and effect of said Interim Order der to Show Cause, pursuant to CPLR 2201 and 6313 (a), on grounds that defendant will otherwise suffer irreparable prejudice to his procedural and statutory rights under CPLR Article 11 and ADA Title II (42 U.S.C. § 12132);
3. Authorizing Defendant, as a poor-person, disabled pro se litigant, pursuant to Title II of the Americans with Disabilities Act, 42 USC § 12132; 28 CFR § 35.160, and Judiciary Law §§ 300-302, to personally audio-record all future proceedings,

hearings, and official communications with the court, including interactions with the Ex Parte Office, Records Room, and Court Reporter Supervisors, as a reasonable ADA accommodation to ensure effective communication and accurate record preservation;

4. Restoring and calendaring for prompt hearing the pending Emergency Order to Show Cause with Interim Relief previously filed by defendant on September 3, 2025, together with its supporting affidavit, memorandum of law, and exhibits (collectively NYSCEF Doc. Nos. 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793), which have not yet been assigned a return date or placed on the IAS Part 52 motion calendar, despite timely filing and service via NYSCEF and email.
5. That prior Emergency OSC sought urgent judicial intervention to enforce Judiciary Law §§ 300-302, secure ADA Title II accommodations for transcript access, and stay proceedings pending appellate review. The continued failure to calendar or adjudicate that motion has caused substantial prejudice to Defendant's statutory rights and access to justice, constituting a constructive denial of due process and unreasonable delay under CPLR §§ 2214 (d), 2215 and 22 NYCRR § 202.7 (f). Accordingly, Defendant respectfully requests that this Court restore and set down for immediate hearing the September 3, 2025, Emergency OSC (NYSCEF Doc. No. Z83) and all supporting papers, ensuring that the pending emergency applications are adjudicated on their merits rather than rendered moot by inaction

The motion is unopposed.

- Order to show cause
- Affidavit in support
Exhibits 1-2
- Memorandum of law in support
Exhibit A

BACKGROUND

By a prior order to show cause filed by the defendant, which included links to YouTube videos in the defendant's affirmation in support, the Court learned that the defendant had admittedly recorded conversations that he had with New York State court reporters. He then uploaded the recorded conversations to YouTube and provided the links in his affidavit in support.

The Court found this conduct to be a clear violation of the Rules of the Chief Judge section 29.1 (a).

The Court thereafter issued an order dated October 1, 2025, and filed under NYSCEF doc. no. 809 (hereinafter the interim order), which directed the defendant to cease and desist from taking photographs, films or videotapes or audiotaping broadcasting or telecasting in a courthouse including any courtroom office or hallway thereof at any time or any occasion whether the court is in session.

The court also ordered that the specific directive included the recording of communications had with any court staff inside the courthouse by phone or other electronic means regardless of the defendant's location. The Court ordered that a violation of the order may subject the defendant to sanctions including contempt.

The first branch of the defendant's motion seeks an order vacating, rescinding, and setting aside the interim order dated October 1, 2025.

The second branch of the defendant's motion seeks an order granting an immediate stay of enforcement, operation, and effect of the interim order.

The third branch of the defendant's motion seeks an order authorizing the defendant, as a poor-person, disabled pro se litigant, pursuant to Title II of the Americans with Disabilities Act, 42 U.S.C. § 12132; 28 C.F.R. § 35.160; and Judiciary Law §§ 300-302, to personally audio-record all future proceedings, hearings, and official communications with the court, including interactions with the ex parte office, records room, and court reporter supervisors, as a reasonable ADA accommodation to ensure effective communication and accurate record preservation.

The first, second and third branch of the defendant's motion are summarily denied. There is no legitimate basis for the defendant to personally audio-record all future proceedings, hearings, and official communications with the court, including interactions with the ex parte office, records room, and court reporter supervisors, as a reasonable ADA accommodation to ensure effective communication and accurate record reservation.

On February 28, 2023, the New York State Supreme Court Justice Sheares issued an order filed under NYSCEF doc. no. 413, which granted the defendant poor person status.

Justice Sheares order granted the defendant's application for permission to prosecute this action as a Poor Person. It also directed the Clerk of the Court to make no charge for costs or fees in connection with the prosecution of this action, including fees or cost of all motions transcripts and waiving the fee for the filing of a notice of appeal and all transcripts fees and filing fees for judicial subpoena duces tecum.

The fourth and fifth branches of the defendant's motion seek an order restoring and calendaring for prompt hearing the pending emergency order to show cause with interim relief previously filed by defendant on September 3, 2025 (hereinafter the September 3, 2025 order to show cause), together with its supporting affidavit, memorandum of law, and exhibits (collectively NYSCEF Doc. Nos. 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793), which have not yet been assigned a return date or placed on the IAS Part 52 motion calendar, despite timely filing and service via NYSCEF and email.

The September 3, 2025, order to show cause sought, among other things, an order punishing several named New York State court reporters for contempt. New York State court reporters engaged in the court's business of transcribing Court proceedings are immune from liability. Judicial immunity "applies to all acts of auxiliary court personnel that are 'basic and integral parts of the judicial function,' unless those acts are done 'in the clear absence of all jurisdictions'" (*Weiner v State of New York*, 273 AD2d 95, 97 [1st Dept 2000]).

The crux of the defendant's claim and the reason he seeks an order holding the Court reporters in contempt is because he was not provided with fully certified, text searchable PDF format transcripts by e-mail. Rather he was provided with plain hard copy paper transcripts. As of last week, the court reporters still have several hard copy transcripts for the defendant which he has yet to pick up.

To the extent, that the Court may have declined to sign the September 3, 2025, order to show cause, this order to show cause is hereby summarily denied due to the judicial immunity of the New York State Court reporters engaged in the Court's business of transcribing court proceedings.

Furthermore, the defendant's request for fully certified, text searchable, PDF format transcripts by e-mail, instead of plain hard copy transcripts, is hereby denied.

The defendant, however, is at liberty to pay the price differential for the enhanced service of fully certified, text searchable, PDF format transcripts by e-mail.

CONCLUSION

The order to show cause by defendant Itomor Khaimov is denied in its entirety.

The foregoing constitutes the decision and order of this Court.

ENTER:



J.S.C.