

**Pavia v Couri**

2007 NY Slip Op 31888(U)

June 22, 2007

Supreme Court, New York County

Docket Number: 0124625/2002

Judge: Joan Madden

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pursuant to the Multiple Dwelling Law (“MDL”) and various other statutes, (2) directing that all rents be deposited with the Clerk of the Court, (3) directing immediate repairs be made in his apartment, (4) directing the immediate continuation of a hearing of contempt, and (5) precluding any testimony regarding plaintiffs’ claims relating to a leak in Couri’s apartment.

Plaintiffs’ order to show cause is denied as moot in light of the jury verdict rendered in plaintiffs’ favor on May 9, 2007, which found that Couri was a nuisance and thus subject to ejectment, and resulted in order directing that rent be paid for a period, including March and April 2007.

As to Couri’s cross motion, as a preliminary matter, it must be denied as it violates this court’s order requiring that all requests for relief in these actions be sought by order to show cause. This order was issued as the result of the voluminous motions that have been made in this litigation<sup>2</sup> and to prevent abusive litigation tactics and the waste of

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<sup>2</sup>The following is a list of motions made by the parties in this action: (1) motion seq. no. 001-Pavias’ motion to compel access to Couri’s apartment to repair leak; (2) motion seq. no. 002- Couri’s motion to direct that certain repairs be made, to restrain the Pavias from interfering with his tenancy, and to direct a mental examination and Pavias’ cross motion for a protective order; (3) motion seq. no. 003-Pavias’ motion for a protective order, (4) motion seq. no. 004- Pavias’ motion for sanctions, (5) motion seq. no. 005-Couri’s motion to dismiss the complaint, (6) motion seq. no. 006- motion to consolidate, (7) motion seq. no. 007-Pavias’ motion to amend complaint and Couri’s cross motion seeking discovery and disqualification of Pavias’ counsel, (8) motion seq. no. 008-Couri’s motion to reargue court’s denial of motion seq. no. 002, (9) motion seq. no. 009-Couri’s motion for summary judgment dismissing the complaint, (10) motion seq. no. 010-Pavias’ motion for use and occupancy and related relief and Couri’s cross motion directing the Pavias to comply with DHCR’s order and related relief, (11) motion seq. no. 011-Couri’s request that the court reduce the amount of rent, (12) motion seq. no. 012-Couri’s request for a reduction of the rent and a stay of the court’s order requiring him to pay use and occupancy, (13) motion seq. no. 013-Couri’s request to reduce rents based on DHCR order and stay the collection of use and occupancy, (14) motion seq. no. 014-Couri’s request for discovery

judicial resources.

Furthermore, the cross motion seeks relief that has been previously sought and

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and reduction of rent, (15) motion seq. no. 015-Pavias' request for a judgment of ejectment based on Couri's failure to pay use and occupancy, (16) motion seq. no. 016-Pavias' motion to reargue with respect to its request for a judgment of ejectment based on Couri's failure to pay use and occupancy; (17) motion seq. no. 017-Pavias' motion for contempt, Couri's cross motion for various relief including directing the Pavias to make certain repairs and directing that use and occupancy be placed into Robbins' escrow account; (18) motion seq. no. 018-Couri's request to strike Pavias' jury demand; (19) motion seq. no. 019- Pavias' motion to modify court order to have Couri pay use and occupancy directly to them, Couri's cross motion to stay proceeding based on his health and to have the court recuse itself; (20) motion seq. no. 020- Pavias' motion for an order directing Marlene Couri to pay use and occupancy, Couri's cross-motion for a stay of the payment of use and occupancy and for the court to recuse itself; (21) motion seq. no. 021- Pavias' motion to strike Couri's answer and to adjudge Couri in contempt for failure to pay use and occupancy; (22) motion seq. no. 022- Couri's motion to renew and reargue and to stay prior orders directing the payment of use and occupancy; (23) motion seq. no. 023-Pavias' motion to strike Couri's answer and to eject defendants based on the failure to pay use and occupancy; (24) motion seq. no. 024-Pavias' motion to advance the date motion seq. no. 023; (25) motion seq. no. 025-Couri's motion for various relief, including resolving all issues regarding the greenhouse in accordance with a determination of the Environmental Control Board and clarifying and modifying the rent stabilized lease; (26) motion seq. no. 026-Pavias' motion for an order determining that the rent stabilized lease and riders tendered to Couri conform with the court's order; (27) motion seq. no. 027-Pavias' motion for an order dismissing Couri's claims for constructive eviction and/or breach of warranty and fraud and restoring the use and occupancy paid by Couri; (28) motion seq. no. 028-Pavias' motion to strike Couri's answer, to award a judgment of ejectment and enter a money judgment against Couri for unpaid use and occupancy; (29) motion seq. no. 029-Pavias' motion to sever Couri's claims for constructive eviction and breach of warranty; (30) motion seq. no. 030- Pavias' motion for a pre-trial hearing to determine the extent to which the Couris may submit certain evidence of violations regarding the greenhouse during trial, Couri's cross motion to stay the proceedings, to dismiss certain claims asserted against him, and to have the court so-order certain subpoenas; (31) motion seq. no. 031- Couri's order to show cause to stay the trial due to his health issues, to dismiss certain claims against him, and to have the court so-order certain subpoenas; (32) motion seq. no. 032- Couri's proposed order to show cause seeking, inter alia, an order granting an immediate hearing pursuant to the Multiple Dwelling Law; (33) motion seq. no. 033- Couri's motion seeking renewal and reargument of this court's decision and order dated March 9, 2007.

Seven motions have also been made in connection with two related actions brought by Couri under Index Nos. 101709/03 and 106226/04.

denied by this court on numerous occasions.<sup>3</sup> Couri's request for an immediate hearing pursuant to the MDL and other statutes is yet another attempt to reopen the issues raised in connection with plaintiff's motion in limine seeking to preclude the introduction of evidence at trial of violations of the Building Code codified in the Administrative Code of the City of New York which were issued by the Department of Buildings ("DOB") regarding the enclosed glass area in the defendant's apartment. Substantially identical requests by Couri have been rejected by the court numerous times, including in its April 12, 2007 decision and order deciding the motion in limine which was consolidated with Couri's motion (motion seq. no 034) to stay the trial and for other relief.

With respect to Couri's request for relief as to purported additional violations, in its decision and order dated January 30, 2007 (motion seq. 031), the court denied Couri's motion for a stay of trial so that he could obtain discovery related to the newly claimed violations raised on the eve of trial, including those regarding Couri's allegations that there was mold in the Apartment. Notably, Couri submits no expert affidavit or other proof to substantiate his allegations related to the mold, and provides no basis for attributing the mold to the acts or omissions of the plaintiffs. It thus would appear that the allegations relating to the mold are consistent with a pattern of abusive litigation tactics employed by Couri to intimidate his adversaries and potential witnesses, through

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<sup>3</sup>The cross motion is identical to a Couri's notice of motion (motion seq. no. 033) for an order granting renewal and reargument of this court's order dated March 9, 2007, declining to sign Couri's order to show cause. Like this cross-motion, the notice of motion violates the court's order requiring all motions be made by order to show cause. The proposed order to show cause, which the court declined to sign, like this cross motion, sought inter alia an immediate hearing regarding alleged violations of the MDL and other statutes.

the repetitive assertion of unsubstantiated accusations and claims.

In view of the above, it is

ORDERED that plaintiffs' order to show cause is denied as moot; and it is further

ORDERED that Couri's cross motion is denied.

DATED: ~~May~~, 2007

*June 22, 2007*

  
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J.S.C.

**FILED**  
JUN 29 2007  
NEW YORK  
COUNTY CLERK'S OFFICE