

Defresco v 254 Pas Prop., LLC
2018 NY Slip Op 32237(U)
September 11, 2018
Supreme Court, New York County
Docket Number: 103364/2011
Judge: Debra A. James
Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op <u>30001</u> (U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.
This opinion is uncorrected and not selected for official publication.

**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. DEBRA A. JAMES

PART

IAS MOTION 59EFM

Justice

-----X

INDEX NO.

103364/2011

SUSAN DEFRESCO,

MOTION DATE

09/11/2018

Plaintiff,

MOTION SEQ. NO.

005

- v -

254 PAS PROPERTY, LLC and PENMARK REALTY CORP.

Defendant.

ORDER

-----X

The following e-filed documents, listed by NYSCEF document number (Motion 005) 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 30

were read on this motion to/for

ENFORCE/EXEC JUDGMENT OR ORDER

Upon the foregoing documents, it is

This matter having come on before this court on September 11 , 2018 , on the order to show cause of the defendants for an order directing plaintiff to comply with the order dated February 2, 2012 (filed on February 22, 2012) of this court and the defendants having been represented in connection therewith by Philip A. Scultze, Esq., GARTNER & BLOOM, P.C. and the plaintiff pro se (representing herself) in connection therewith and, pursuant to CPLR 4317, the court having on its own motion determined to consider the appointment of a referee to determine as follows, and it appearing to the court that a reference to determine is proper and appropriate pursuant to CPLR 4317 (b) in that an examination of a long account will be required, it is now hereby

ORDERED that a Judicial Hearing Officer ("JHO") or Special Referee shall be designated to determine the following individual issues of fact, which are hereby submitted to the JHO/Special Referee for such purpose:

the issue of the amount of outstanding rent, pendent lite, from the Order entered on February 22, 2012 to date under any lease or renewal lease pertaining to 254 Park Avenue South, Unit 9P, New York, New York that plaintiff owes defendant; and it is further

ORDERED that the powers of the JHO/Special Referee shall not be limited beyond the limitations set forth in the CPLR: and it is further

ORDERED that this matter is hereby referred to the Special Referee Clerk (Room 119, 646-386-3028 or spref@nycourts.gov) for placement at the earliest possible date upon the calendar of the Special Referees Part (Part SRP), which, in accordance with the Rules of that Part (which are posted on the website of this court at www.nycourts.gov/supctmanh at the "References" link), shall assign this matter at the initial appearance to an available JHO/Special Referee to determine as specified above; and it is further

ORDERED that counsel and plaintiff shall immediately consult one another and counsel for defendant, within 15 days from the

date of this Order, submit to the Special Referee Clerk by fax (212-401-9186) or e-mail an Information Sheet (accessible at the "References" link on the court's website) containing all the information called for therein and that, as soon as practical thereafter, the Special Referee Clerk shall advise any party and counsel for the parties of the date fixed for the appearance of the matter upon the calendar of the Special Referees Part; and it is further

ORDERED that the parties shall appear for the reference hearing, including with all witnesses and evidence they seek to present, and shall be ready to proceed with the hearing, on the date fixed by the Special Referee Clerk for the initial appearance in the Special Referees Part, subject only to any adjournment that may be authorized by the Special Referees Part in accordance with the Rules of that Part; and it is further

ORDERED that, except as otherwise directed by the assigned JHO/Special Referee for good cause shown, the trial of the issue(s) specified above shall proceed from day to day until completion and counsel must arrange their schedules and those of their witnesses accordingly; and it is further

ORDERED that counsel shall file memoranda or other documents directed to the assigned JHO/Special Referee in accordance with the Uniform Rules of the Judicial Hearing Officers and the Special Referees (available at the "References" link on the court's

website) by filing same with the New York State Courts Electronic Filing System (see Rule 2 of the Uniform Rules); and it is further

ORDERED that within thirty (30) days of the filing of the decision of the Special Referee under CPLR § 4319, plaintiff shall tender to defendants in certified funds or money order the amount of rent determined to be owed under in such decision; and it is further

ORDERED that plaintiff and counsel for defendants are directed to appear in IAS Part 59, Room 331, 60 Centre Street for a compliance conference on November 27, 2018, 2:30 PM.

<u>9/11/2018</u>		<u>DEBRA A. JAMES, J.S.C.</u>	
DATE			
CHECK ONE:	☐ CASE DISPOSED	☒ NON-FINAL DISPOSITION	
	☐ GRANTED ☐ DENIED	☒ GRANTED IN PART	☐ OTHER
APPLICATION:	☐ SETTLE ORDER	☐ SUBMIT ORDER	
CHECK IF APPROPRIATE:	☐ INCLUDES TRANSFER/REASSIGN	☐ FIDUCIARY APPOINTMENT	☒ REFERENCE