

Glaze Teriyaki, LLC v MacArthur Props. I, LLC
2018 NY Slip Op 33265(U)
December 13, 2018
Supreme Court, New York County
Docket Number: 653883/2013
Judge: Barry Ostrager
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This opinion is uncorrected and not selected for official publication.

**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY****PRESENT: HON. BARRY R. OSTRAGER****PART****IAS MOTION 61EFM***Justice*

-----X

GLAZE TERIYAKI, LLC,

Plaintiff,

- v -

MACARTHUR PROPERTIES I, LLC, and BOARD OF MANAGERS
OF THE LEX 54 CONDOMINIUM,

Defendants.

INDEX NO.

653883/2013

MOTION DATE

N/A

MOTION SEQ. NO.

008

**DECISION AND ORDER OF
REFERENCE**

-----X

The following e-filed documents, listed by NYSCEF document number (Motion 008) 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 219, 220, 221, 223

were read on this motion to/for

JUDGMENT - MONEY

OSTRAGER, BARRY R.:

This matter having come before this Court on December 13, 2018, on motion of the defendant landlord MacArthur Properties I, LLC for a money judgment against plaintiff former tenant Glaze Teriyaki, LLC for a money judgment for holdover rent pursuant to the parties' Lease for the period from January 22, 2014, the lease termination date, through April 20, 2018, the date of plaintiff's eviction, plus interest and fees (mot. seq. 008), and the plaintiff having appeared by Kevin Sean O'Donoghue, Esq., of O'Donoghue PLLC, and the defendant having appeared by Kirk P. Tzanides, Esq., of The Tzanides Law Firm, PLLC, and, pursuant to CPLR 4212, the Court having on its own motion determined to appoint Judicial Hearing Officer Ira Gammerman or, if unavailable, another available Judicial Hearing Officer ("JHO") or Special Referee to hear and determine, or in the alternative in the discretion of JHO Gammerman or any other assigned JHO or Special Referee to hear and report, and it appearing to the Court that circumstances requiring said appointment in this case exist; it is now hereby

ORDERED that Judicial Hearing Officer Ira Gammernan, or if not available, another JHO or Special Referee, shall be designated to hear and determine or report to this Court on the following issues based on the relationship of the issues raised in the pending motion to issues previously heard by JHO Gammernan, and the motion is hereby submitted to JHO Gammernan, if available, for such purpose:

- (1) the issue whether defendant's right to recover the holdover rent and interest and fees claimed to be due is barred in whole or in part by the October 13, 2016 settlement on the record of certain issues before JHO Gammernan; and
- (2) the issue of the specific amount of damages, interest and fees, if any, to which defendant is entitled based on the claims asserted in the motion; and it is further

ORDERED that the powers of the assigned JHO or 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 court website at www.nycourts.gov/supctmanh at the "References" link), shall assign this matter at the initial appearance to JHO Gammernan, or if unavailable, to another JHO or Special Referee, to hear and determine or report as specified above; and it is further

ORDERED that counsel shall immediately consult one another and counsel for plaintiff shall, 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 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 issues 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

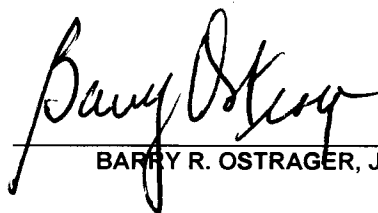
ORDERED that counsel shall file memoranda or other documents directed to the assigned JHO/Special Referee in accordance with the Uniform Rules of the Judicial Hearing Officers and the Special Referees (available at the "References" link on the court's website) by filing same with the New York State Courts Electronic Filing System (see Rule 2 of the Uniform Rules); and it is further

ORDERED that any motion to confirm or disaffirm the Report of JHO Gammerman, or any other assigned JHO or Special Referee, shall be made within the time and in the manner specified in CPLR 4403 and Section 202.44 of the Uniform Rules for the Trial Courts, unless the matter has been fully determined by the JHO/Special Referee; and it is further

ORDERED that, unless otherwise directed by this Court in any Order that may be issued together with this Order of Reference, or unless the matter is fully determined by the assigned JHO or Special Referee, the issues presented in the motion identified above shall be held in abeyance pending submission of the Report of the JHO/Special Referee and the determination of this Court thereon.

12/13/2018

DATE



BARRY R. OSTRAGER, J.S.C.

CHECK ONE:

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CASE DISPOSED

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NON-FINAL DISPOSITION

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GRANTED

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DENIED

☐

GRANTED IN PART

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OTHER

APPLICATION:

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SETTLE ORDER

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SUBMIT ORDER

CHECK IF APPROPRIATE:

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INCLUDES TRANSFER/REASSIGN

☐

FIDUCIARY APPOINTMENT

☒

REFERENCE