

**Harris v Harris**

2019 NY Slip Op 30381(U)

February 6, 2019

Supreme Court, New York County

Docket Number: 656962/2017

Judge: Nancy M. Bannon

Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op 30001(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. NANCY M. BANNON PART IAS MOTION 42EFM**

*Justice*

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**INDEX NO. 656962/2017**

BERNICE HARRIS AND, ALLISON HARRIS SCHIFINI  
INDIVIDUALLY AND DERIVATIVELY ON BEHALF OF, TJ  
MONTANA ENTERPRISES, LLC,

**MOTION DATE 2/6/19**

**MOTION SEQ. NO. 003**

Plaintiffs,

- v -

BETSY HARRIS A-K-A BETSY SAVAGE, TAMARA HARRIS  
INDIVIDUALLY AND AS PRELIMINARY EXECUTOR OF THE,  
ANDREW LICHTENSTEIN, TJ MONTANA ENTERPRISES, LLC

**DECISION AND ORDER**

Defendants.

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The following e-filed documents, listed by NYSCEF document number (Motion 003) 107, 108, 111, 112  
were read on this motion to/for SUBST/RELIEVE/WITHDRAW COUNSEL.

Upon the foregoing documents, it is

ORDERED that the motion of Ethan A. Kobre, Esq., of the firm Schwartz Sladkus Reich  
Greenberg Atlas, LLP, to be relieved as attorney for defendant/counterclaim-plaintiff Betsy Harris  
a/k/a Betsy Savage is granted without opposition upon filing of proof of compliance with the  
following conditions; and it is further

ORDERED that said attorney serve a copy of this order with notice of entry upon the  
former client at her last known address by certified mail, return receipt requested, and upon the  
attorneys for all other parties appearing herein by posting to the New York State Courts Electronic  
Filing System; and it is further

ORDERED that, together with the copy of this order with notice of entry served upon the  
former client, moving counsel shall forward a notice directing the former client to appoint a  
substitute attorney within 30 days from the date of the mailing of the notice and the client shall

comply therewith, except that, in the event the former client intends instead to represent herself, she shall notify the Clerk of the Part of this decision in writing within said 30-day period; and it is further

ORDERED that any new attorney retained by the former client file a notice of appearance with the Clerk of the General Clerk's Office (60 Centre Street, Room 119) and the Clerk of the Part within 40 days from the date the notice to retain new counsel is mailed; and it is further

ORDERED that no further proceedings may be taken against the former client without leave of this court for a period of 40 days after service on the former client of the aforesaid notice to appoint a substitute attorney; and it is further

ORDERED that the issue of the reasonable value of legal services rendered and disbursements paid by movant is hereby severed, and the matter is referred to the Special Referee Clerk for assignment to a Special Referee to hear and report to this court on that issue, and, pending receipt of the report and a motion pursuant to CPLR 4403, final determination of that branch of the motion is held in abeyance; 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 counsel for the movant shall, within 30 days from the date of this order, serve a copy of this order with notice of entry, together with a complete Information Sheet,<sup>1</sup> upon the Special Referee Clerk in the General Clerk's Office (60 Centre Street, Room 119), who is directed to place this matter on the calendar of the Special Referee's Part for the earliest convenient date subsequent to the conclusion of the stay fixed above; and it is further

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<sup>1</sup> Available on the Court's website at [www.nycourts.gov/supctmanh](http://www.nycourts.gov/supctmanh) (under the "References" link in the navigator bar).

ORDERED that counsel for the movant shall, within 24 days from the conclusion of the stay fixed above, serve a proposed accounting, and objections to the proposed accounting shall be served by all other parties within 20 days from service of the movant's papers, and the foregoing papers shall be filed with the Special Referee Clerk prior to the original appearance date in Part SRP fixed by the Clerk as set forth above; 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 the hearing will be conducted in the same manner as a trial before a Justice without a jury (CPLR 4320[a]) (the proceeding will be recorded by a court reporter, the rules of evidence apply, etc.) and, 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 it is further

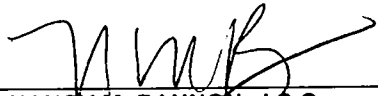
ORDERED that service upon the Special Referee Clerk, the filing of a notice of appearance as provided above with the Clerk of the General Clerk's Office, and service of documents on the Special Referee shall be made in accordance with the procedures set forth in the *Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases* (accessible at the "E-Filing" page on the court's website at the address [www.nycourts.gov/supctmanh](http://www.nycourts.gov/supctmanh)); and it is further

ORDERED that any motion to confirm or disaffirm the Report of the JHO/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; and it is further

ORDERED that counsel shall turn over the file pertaining to this case upon the fixing of the value of the firm's services and the payment thereof (Yaron v. Yaron, 58 A.D.2d 752) or the posting of a bond for the payment thereof.

This constitutes the Decision and Order of the court.

2/6/2019  
DATE

  
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NANCY M. BANNON, J.S.C.  
**HON. NANCY M. BANNON**

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