

House v Slow Food, LLC
2019 NY Slip Op 32464(U)
August 20, 2019
Supreme Court, New York County
Docket Number: 159450/2018
Judge: Debra A. James
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**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. DEBRA A. JAMES PART IAS MOTION 59EFM

Justice

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INDEX NO. 159450/2018

ERIN-LOUISE HOUSE and RASHMI PANDEY,

MOTION DATE 08/20/2019

Plaintiffs,

MOTION SEQ. NO. 002

- v -

SLOW FOOD, LLC, JOHN MANOS, and VASILY
THEODORIDIS,

ORDER ON MOTION

Defendants.

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The following e-filed documents, listed by NYSCEF document number (Motion 002) 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65

were read on this motion to/for JUDGMENT - SUMMARY

Upon the foregoing documents, it is

ORDERED that plaintiffs' motion for summary judgment dismissing the counterclaims and affirmative defenses interposed by defendants is granted without opposition and the affirmative defenses and counterclaims are dismissed; and it is further

ORDERED that plaintiffs' motion for leave to amend the complaint herein to add a cause of action for unlawful retaliation pursuant to Labor Law § 251(a) is granted without opposition, and the amended complaint in the proposed form annexed to the moving papers shall be deemed served upon service of a copy of this order with notice of entry thereof; and it is further

ORDERED that the motion of plaintiffs for an award of costs against defendant Slow Food, LLC for its interposition of a baseless counterclaim for breach of contract in light of the clear evidence that at all times it had possession of the intellectual property at issue, is granted, and

The court having determined that defendant Slow Foods, LLC, has engaged in frivolous conduct as defined in Section 130-1.1 (c) of the Rules of the Chief Administrator as set forth above, and having set out above the reasons why the conduct has been found frivolous and that costs should be awarded, it is now therefore

ORDERED that plaintiffs' motion for costs is granted and the defendant Slow Foods, LLC shall reimburse plaintiffs for actual expenses reasonably incurred and reasonable counsel fees incurred in bringing the motion to dismiss such defendant's counterclaim for breach of contract, and the issue of such reasonable attorneys' fees and disbursements is severed and referred to the Clerk of the Special Referee to hear and determine, and

This matter having come on before this court on August 20, 2019, on motion of Lawrence A. Beckenstein, Esq. the attorney for plaintiffs at oral argument, and the plaintiffs having been represented in connection therewith and the defendants having defaulted in appearing and 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), 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 reasonable attorneys' fees and disbursements that plaintiffs incurred in making the motion for summary dismissal of the counterclaim for breach of contract interposed by defendant Slow Foods, LLC., 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 for plaintiffs shall, within 15 days from the date of this Order, submit to the Special Referee Clerk

(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 plaintiffs 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 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 the Clerk shall enter judgment in the amount of such reasonable attorneys' fees and disbursements against defendant Slow Foods, LLC as determined in the Report of the Special Referee; and it is further

ORDERED that the defendants shall serve an answer to the amended complaint or otherwise respond thereto within 20 days from the date of such service; and it is further

ORDERED that counsel are directed to appear for a status conference in Room 331, 60 Centre Street, on November 7, 2019, at 11 A.M.

<u>8/20/2019</u> DATE					 DEBRA A. JAMES, J.S.C.
CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION	
APPLICATION:	<input checked="" type="checkbox"/>	GRANTED	<input type="checkbox"/>	DENIED	<input type="checkbox"/>
CHECK IF APPROPRIATE:	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>	SUBMIT ORDER	<input type="checkbox"/>
	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input checked="" type="checkbox"/>
					<input type="checkbox"/>
					OTHER
					<input checked="" type="checkbox"/>
					REFERENCE