

Matter of City of New York v Airbnb, Inc.
2019 NY Slip Op 33806(U)
December 11, 2019
Supreme Court, New York County
Docket Number: 451409/2018
Judge: James E. d'Auguste
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At Part 55 of the Civil Branch of the Supreme Court of the State of New York, held in and for the County of New York at the Courthouse, 111 Centre Street, New York, New York, on the 11th day of December, 2019

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: CIVIL BRANCH

PRESENT: HON. JAMES D'AUGUSTE, J.S.C.

-----X

In the Matter of the Application of

THE CITY OF NEW YORK,

Petitioner,

-against-

AIRBNB, INC.,

Respondent.

-----X

In the Matter of the Application of

THE CITY OF NEW YORK,

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-against-

AIRBNB, INC.,

Respondent.

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In the Matter of the Application of

AIRBNB, INC.

Petitioner,

-against-

CITY OF NEW YORK,

Respondent.

**CONSOLIDATED INTERIM
ORDER GRANTING LEAVE
TO REARGUE**

Index No. 451409/2018

IAS Part 55

Motion Seq. No. 2

Index No. 451582/2018

IAS Part 55

Motion Seq. No. 2

Index No. 157516/2018

IAS Part 55

Motion Seq. No. 3

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In the Matter of the Application of

AIRBNB, INC.

Petitioner,

-against-

CITY OF NEW YORK,

Respondent.
-----X

Index No. 157517/2018

IAS Part 55

Motion Seq. No. 3

UPON READING AND FILING:

1. In New York County Index No. 451409/2018, the June 17, 2019 affirmation of Brian Krist of the New York Mayor’s Office of Special Enforcement and memorandum of law of the City of New York (the “City”), the June 26, 2019 affirmation of Nicholas Jackson of ZwillGen PLLC and memorandum of law of Airbnb, Inc. (“Airbnb”), and the affirmations of the aforementioned Brian Krist respectively dated July 2, 2019 and July 26, 2019;
2. In New York County Index No. 451582/2018, the June 17, 2019 affirmation of the aforementioned Brian Krist, the June 26, 2019 affirmation of the aforementioned Nicholas Jackson and memorandum of law of Airbnb, and the affirmations of the aforementioned Brian Krist respectively dated July 2, 2019 and July 26, 2019;
3. In New York County Index No. 157516/2018, the June 17, 2019 affirmation of the aforementioned Brian Krist, the June 26, 2019 affirmation of the aforementioned Nicholas Jackson and memorandum of law of Airbnb, and the affirmations of the aforementioned Brian Krist respectively dated July 2, 2019 and July 26, 2019;

4. In New York County Index No. 157517/2018, the June 17, 2019 affirmation of the aforementioned Brian Krist, the June 26, 2019 affirmation of the aforementioned Nicholas Jackson and memorandum of law of Airbnb, and the affirmations of the aforementioned Brian Krist respectively dated July 2, 2019 and July 26, 2019; and upon all other papers and proceedings had in the above-captioned proceedings:

IT APPEARING that the Court has heard and considered the above special proceedings jointly, including the above-captioned motions by the City seeking leave pursuant to CPLR 2221(d) to partially reargue the Court's May 16, 2019 decision published *sub nom. City of New York v. Airbnb, Inc.*, 2019 NY Slip Op 31377(U) to strike a portion of the Court's May 16, 2019 order (collectively, the "Reargument Motions"), and disposition of the Reargument Motions by one consolidated order pursuant to CPLR 602(a) is in the interest of the parties and judicial economy;

IT FURTHER APPEARING that Airbnb has indicated that it does not oppose the City's request for leave to reargue in the Reargument Motions; and takes no position as to the ultimate relief sought in the Reargument Motions, namely the striking of a portion of the Court's order requiring certain pre-clearance procedures as described in the City's papers in support of the Reargument Motions (the "Preclearance Order"):

IT FURTHER APPEARING that, on June 17, 2019, the City, in addition to filing the Reargument Motions, noticed appeal of the Preclearance Order to the Appellate Division, First Department, perfection of which is subject to the time constraints outlined in 22 N.Y.C.R.R. § 1250.9;

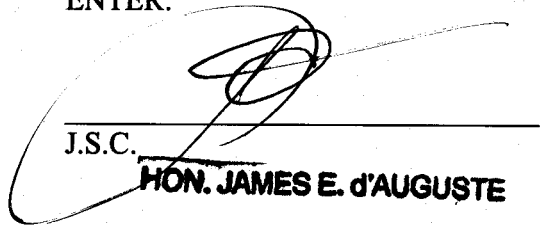
IT FURTHER APPEARING that, following *People v. Simmons*, 86 Misc. 2d 737, 739-740 (Sup. Ct., New York Co.), *affd. for reasons stated below*, 54 A.D.2d 624 (1st Dept. 1976); and *People v. Green*, 131 Misc. 2d 641, 642-643 (Sup. Ct., Kings Co. 1986), the Court may grant reargument and reconsider its decisions, orders or judgments during pending appeals in keeping with judicial economy and efficiency to forestall potentially unnecessary appeals or facilitate appellate review after a grant of leave to reargue;

IT FURTHER APPEARING that, following N.Y.C. Admin. Code § 28-205.1.1, the Reargument Motions are entitled to a calendar preference;

IT IS HEREBY ORDERED that, pursuant to CPLR 2221(f), the Court hereby grants the City leave to reargue the Preclearance Order;

IT IS FURTHER ORDERED, pursuant to CPLR 2221(f), that the Court reserves judgment upon whether to adhere to, reconsider or modify the Preclearance Order;

ENTER:



J.S.C.
HON. JAMES E. d'AUGUSTE