

Board of Mgrs. of 75 Wall St. Condominium v Alijaj
2021 NY Slip Op 30233(U)
January 25, 2021
Supreme Court, New York County
Docket Number: 153034/2014
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

THE BOARD OF MANAGERS OF 75 WALL STREET
CONDOMINIUM,

Plaintiff,

INDEX NO. 153034/2014
MOTION DATE 01/25/2021
MOTION SEQ. NO. 006

- v -

ENVER ALIJAJ, SKENDER ALIJAJ, JOHN SISK,
FLUSHING SAVINGS BANK, FSB, NEW YORK CITY
ENVIRONMENTAL CONTROL BOARD, NEW YORK CITY
PARKING VIOLATIONS BUREAU, and NEW YORK CITY
TRANSIT ADJUDICATION BUREAU,

Defendants.

DECISION + ORDER ON MOTION

The following e-filed documents; listed by NYSCEF document number (Motion 006) 137, 138, 139, 140, 144, 145, 146

were read on this motion to/for

ATTORNEY -WITHDRAWAL

ORDER

Upon the foregoing documents, it is

ORDERED that to the extent that the motion of Seung Woo Lee, Esq., Lester & Associates, P.C., seeks a stay of any further proceedings in this action, such application is, in all respects, DENIED; and it is further

ORDERED that the plaintiff may proceed with further enforcement of the final judgment herein forthwith; and it is further

ORDERED that the motion of Seung Woo Lee, Esq., Lester & Associates to be relieved as attorney for defendant Enver Alijaj

is granted without opposition upon filing of proof of compliance with the following conditions: and it is further

ORDERED that, within 5 days from entry, such attorney shall serve a copy of this order with notice of entry upon the former client at his last known address by certified mail, and upon the attorneys for all other parties appearing herein by case, by posting to the New York State Courts Electronic Filing System; and it is further

ORDERED that to the extent that moving counsel seeks a charging lien against any of the proceeds of sale to which defendant is entitled, such application is GRANTED, with the condition that such charging lien is subject to the satisfaction of and subordinate to that portion of the final judgment and sale that represents attorneys' fees, additional common charges under the proprietary lease, incurred by plaintiff in this action, as determined by the Special Referee in her Report dated February 21, 2020; and it is further

ORDERED that the issue of the reasonable value of legal services rendered and disbursements paid by movant is severed and referred to the Special Referee Clerk for assignment to a Special Referee to hear and determine pursuant to the accompanying Order of Reference; and it is further

ORDERED that this matter having come on before this court on January 25, 2021, on motion of the firm of Lester &

Associates, P.C., for the determination of the amount of the charging lien and this court having now found 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 issue of fact, which is hereby submitted to the JHO/Special Referee for such purpose:

-the issue of the amount of reasonable attorneys' fees incurred by defendant Enver Alijaj, i.e. the reasonable value of the legal services rendered and disbursements paid by the firm of Lester & Associates, P.C. in the defense of the herein action; 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, including any new counsel retained by defendant Enver Alijaj, or defendant Enver Alijaj on his own behalf, should he determine to proceed pro se, shall immediately consult one another and outgoing counsel for defendant shall, no less than 30 days after 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 and any party appearing pro se 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, 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 15 days from the date of the mailing of the notice and the client shall comply therewith, except that, in the event defendant intends instead to represent himself, he shall notify the Clerk of the Part of this decision in writing within such 15-day period; and it is further


ORDERED that any new attorney retained by defendant shall 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 20 days from the date the notice to retain new counsel is mailed; and it is further

ORDERED that the departing attorney shall, within 10 days from entry, serve a copy of this order with notice of entry on the Clerk of the General Clerk's Office (Room 119); and it is further

ORDERED that such service upon the Clerk of the General Clerk's Office, the filing of a notice of appearance as provided herein, and the filing of papers as aforesaid 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/suptctmanh).

DECISION

See Judiciary Law § 475 and Haser v Haser, 271 AD2d 253 (1st Dept. 2000).

<u>1/25/2021</u> DATE	 DEBRA A. JAMES, J.S.C.			
CHECK ONE:	<input checked="" type="checkbox"/>	CASE DISPOSED	<input type="checkbox"/>	NON-FINAL DISPOSITION
	<input type="checkbox"/>	GRANTED	<input type="checkbox"/> DENIED	<input checked="" type="checkbox"/> GRANTED IN PART
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER		<input type="checkbox"/> OTHER
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	FIDUCIARY APPOINTMENT
			<input checked="" type="checkbox"/>	REFERENCE