

**Matter of Jewish Press Inc. v New York City Police  
Dept.**

2021 NY Slip Op 30964(U)

March 29, 2021

Supreme Court, New York County

Docket Number: 154545/2019

Judge: Debra A. James

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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. DEBRA A. JAMES PART IAS MOTION 59EFM**

*Justice*

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INDEX NO. 154545/2019

IN RE APPLICATION OF THE JEWISH PRESS INC.,

MOTION DATE 02/27/2020

Petitioner,

MOTION SEQ. NO. 002

For a Judgment under Article 78 of the Civil Practice Law & Rules,

- v -

**DECISION + ORDER ON  
MOTION**

NEW YORK CITY POLICE DEPARTMENT,

Respondent.

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The following e-filed documents, listed by NYSCEF document number (Motion 002) 20, 21, 22, 23, 24, 25, 26, 27, 29, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44

were read on this motion to/for ARTICLE 78 (BODY OR OFFICER).

ORDER

Upon the foregoing documents, it is

ORDERED that the petition seeking an order vacating respondent's Order dated April 16, 2019 that denies production of the underlying records for each of the 1,172 requests for religious accommodations, such as dress, grooming, or shift changes, and the results thereof, for the last three years, made to respondent New York City Police Department, details of which respondent summarized in a fifty-one (51) page spreadsheet provided to petitioner, and for attorneys' fees, and the cross motion of respondent to dismiss such petition pursuant to CPLR 7804(f), are held in abeyance pending a hearing on whether such records are not

digitized or scanned in any manner, and if so, whether producing such records in hard copy would place an undue burden upon respondent; and it is further

ORDERED that WHEREFOR, this matter having come on before this court on February 20, 2020, on petition of the petitioner for judgment pursuant to Article 78 of the Civil Practice Law and Rules and Public Officers Law § 87 et seq., and the petitioner(s) having appeared by Joseph Aron, Esq., and the respondent having appeared by Elizabeth Emonds, Esq., and, pursuant to CPLR 4212, the court having on its own motion determined to consider the appointment of a referee to hear and report, and it appearing to the court that an exceptional condition requiring such appointment in this case exists, it is now hereby

ORDERED that a Judicial Hearing Officer ("JHO") or Special Referee shall be designated to hear and report to this court on the following individual issues of fact, which are hereby submitted to the JHO/Special Referee for such purpose:

- (1) the issue of whether the underlying records of the information set forth in the spreadsheet summarizing the request for religious accommodations, such as dress, grooming, or shift changes, for the last three years, generated by respondent and produced to petitioner, have not been digitized or scanned; and

(2) if such records have not been digitized or scanned, whether the retrieval, redaction and photocopying of such hard copy records for production to petitioner would place an undue burden upon respondent;

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](http://www.nycourts.gov/supctmanh) at the "References" link ), shall assign this matter at the initial appearance to an available JHO/Special Referee to hear and report as specified above; and it is further

ORDERED that counsel shall immediately consult one another and counsel for respondent shall, within 15 days from service of a copy of this Order with notice of entry, 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 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 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, unless otherwise directed by this court in any Order that may be issued together with this Order of Reference to Hear and Report, the issues identified in the first paragraph hereof shall be held in abeyance pending submission of the Report

of the JHO/Special Referee and the determination of this court thereon.

DECISION

See Matter of New York Commission for Occupational Safety & Health v Bloomberg, 72 AD3d 153, 161-162 (1<sup>st</sup> Dept. 2010) and Cuddy Law Firm, P.L.L.C. v New York City Department of Education, 191 AD3d 558 (1<sup>st</sup> Dept. 2021).

*Debra A. James*

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3/29/2021

DATE

DEBRA A. JAMES, J.S.C.

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