

<b>M Plaza, L.P. v Chu</b>
2022 NY Slip Op 30850(U)
March 14, 2022
Supreme Court, New York County
Docket Number: Index No. 156057/2021
Judge: William Perry
Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op <u>30001</u> (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. WILLIAM PERRY PART 23**

*Justice*

-----X

INDEX NO. 156057/2021

M PLAZA, L.P.

MOTION DATE N/A

Plaintiff,

MOTION SEQ. NO. 002

- v -

ROBERT CHU,

**DECISION + ORDER ON  
MOTION**

Defendant.

-----X

The following e-filed documents, listed by NYSCEF document number (Motion 002) 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 35, 36

were read on this motion to/for CONTEMPT.

Plaintiff M PLAZA, L.P., having by Order to Show Cause moved for an Order holding Defendant ROBERT CHU in Contempt of Court for his failure to comply with the July 16, 2021 Order of this Court which granted a Preliminary Injunction enjoining and restraining Defendant ROBERT CHU, from allowing a dangerous and unsanitary clutter condition to exist in the apartment located at 484 West 43rd Street Apartment 39K, New York, NY 10036 (the "Premises") and directing Defendant ROBERT CHU to clean up the Premises in accordance with Defendant's lease and the New York City Housing Maintenance Code;

Defendant ROBERT CHU, having now appeared in this action by the Goddard Riverside Law Department, and having now been admitted by both Plaintiff and Defendant to have taken steps to return to Compliance with the July 16, 2021 Order by cleaning the Premises;

The Parties, having consented to a monitoring plan by which Plaintiff will ensure that Defendant remains in compliance with the July 16, 2021 Order for the next year and a plan for how the July 16, 2021 Order shall be enforced forthwith;

Upon a Court Appearance held via Microsoft Teams on March 8, 2022, at which the Court asked the Parties to submit a Proposed Order disposing of the Plaintiff's Order to Show Cause for Contempt and memorializing the proposed monitoring plan;

**NOW**, upon said application of the Plaintiff and upon consent of the parties, it is hereby:

**ORDERED** that the Order to Show Cause seeking Contempt of Court is resolved and withdrawn without prejudice upon consent to the extent as further described in this Order; and it is

**ORDERED** that the July 16, 2021, Order remains in full force and effect and that Defendant ROBERT CHU is required to keep the apartment clean and not permit the clutter and/or nuisance conditions described in the Complaint to recur or persist in the Apartment for a period of twelve (12) months (the "Probationary Period"), beginning on March 1, 2022 and expiring on February 28, 2023; and it is

**ORDERED** that Defendant take all reasonable steps so as to prevent roach or other pest infestations from recurring within the Apartment during the Probationary Period. Defendant is specifically directed to prevent rotten/expired food from being present on the surfaces of the apartment for long periods of time and to ensure that the Kitchen sink and other surfaces remain cleaned and not filled with clutter and refuse; and it is

**ORDERED** that Defendant provide access to the Apartment for Plaintiff/Plaintiff's agents for inspection and extermination treatments on a weekly basis, with such access to be granted on every Friday at 9:30 a.m. to 12:00 p.m. Defendant shall not unreasonably deny such access, and if such access cannot be reasonably provided, Defendant shall arrange with Plaintiff for reasonable alternate access during that same week; and it is

**ORDERED** that Plaintiff inspect and repair as required by law the areas of flooring/tiles


in the kitchen of the Premises that are claimed by Defendant to be defective, and that Plaintiff provide Defendant with 72 hours notice of its intent to access the Premises for this purpose and that Plaintiff shall not seek such access prior to April 4, 2022; Plaintiff is also directed to inspect the areas of the living room flooring in the Premises that are alleged to be defective and to repair such to the extent that such repairs can be done without requiring the overlay of the entire living room floor; and it is

**ORDERED** that in the event Plaintiff believes that Defendant is not in compliance with this Order or the July 16, 2021 Order during the Probationary Period, Plaintiff may serve Defendant's counsel with a Seven Day Notice to Cure, identifying the alleged violation and providing Defendant with seven days to remedy said violation. Said Notice may be served by email upon Defendant's Counsel by e-mail; and it is

**ORDERED** that in the event that Defendant fails to cure a violation after the service of a Seven Day Notice to Cure or in the event that Defendant violates this Order or the July 16, 2021 Order for the third time, Plaintiff may file a Motion on eight days notice for Contempt of Court and may serve said Motion by email upon Defendant's Counsel; and it is

**ORDERED** that this Court shall hold Compliance Conferences on September 7, 2022 and March 31, 2023 to further ensure compliance with the terms of this Order; should Defendant remain in compliance through the March 31, 2023 date, the parties agree that this action shall be discontinued and the July 16, 2021 Order shall be deemed vacated; and it is

ORDERED that the Note of Issue deadline for this action shall be extended to August 31, 2023.

<u>3/14/2022</u> DATE					 WILLIAM PERRY, J.S.C.
CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION	
	<input type="checkbox"/>	GRANTED	<input type="checkbox"/>	GRANTED IN PART	<input checked="" type="checkbox"/> OTHER
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>	SUBMIT ORDER	
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input type="checkbox"/> REFERENCE