

**Corrales v Gilbane Bldg. Co.**

2025 NY Slip Op 33168(U)

August 22, 2025

Supreme Court, New York County

Docket Number: Index No. 152082/2022

Judge: Judy H. Kim

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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. JUDY H. KIM PART 04**

*Justice*

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ELIANA J. CORRALES,

Plaintiff,

- v -

GILBANE BUILDING COMPANY, GILBANE/ANT YAPI  
JOINT VENTURE LLC, 730 FIFTH AVENUE  
CORPORATION, OKO GROUP LLC, 730 FIFTH RETAIL  
LLC, both individually and d/b/a 730 FIFTH AVENUE  
CONDOMINIUM, 730 FIFTH UPPER, LLC, both individually  
and d/b/a 730 FIFTH AVENUE CONDOMINIUM,

Defendants.

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**INDEX NO. 152082/2022**  
**MOTION DATE 02/19/2025**  
**MOTION SEQ. NO. 002**

**DECISION + ORDER ON  
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 002) 43, 44, 45, 46, 47, 48, 49, 50, 53, 54, 55, 56

were read on this motion to/for ATTORNEY - FEES.

Upon the foregoing documents, the motion by plaintiff’s former counsel, Davidoff Law, for a fee hearing pursuant to Judiciary Law §475 to determine the appropriate division of legal fees in this matter between it and current counsel William Schwitzer & Associates, P.C. (“Schwitzer”) and for sanctions against Schwitzer is granted to the extent that a hearing on apportionment is referred to the Special Referee to hear and report and is otherwise denied.

Davidoff Law represented plaintiff Eliana J. Corrales from July 7, 2021 to July 7, 2022, at which point it was replaced as counsel by Schwitzer and the Leyvi Law Group, LLC. Davidoff Law retained a charging lien in this matter pursuant to Judiciary Law §475, which incoming counsel acknowledged in a stipulation dated August 22, 2022 (NYSCEF Doc No. 47). This case settled on January 6, 2025 (NYSCEF Doc No. 42). Davidoff Law claims it is entitled to attorneys’ fees for the work that its completed on behalf of plaintiff and requests a hearing to determine the

amount of such fees. It also asserts that Schwitzer failed to inform it of the settlement of this action and seeks sanctions based on Schwitzer's nonfeasance.

In opposition, Schwitzer consents to a fee hearing but contends that this hearing will demonstrate that it is entitled to the entire fee because its legal work "significantly contributed to the ... settlement" of this action. Schwitzer also asserts that Davidoff Law was discharged for cause and argues that, as a result, it is not entitled to any portion of the fee.

As the parties do not dispute the necessity of a hearing to resolve this question and have stipulated to the reference of such hearing to a Special Referee (NYSCEF Doc No. 53). Accordingly, the Court grants the motion to the extent of directing a hearing before a Special Referee to hear and report on: the appropriate division of legal fees in this matter and whether plaintiff's discharge of Davidoff Law was "for cause" (*see Costello v Kiaer*, 278 AD2d 50, 50 [1st Dept 2000]). The branch of Davidoff Law's motion seeking sanctions as against Schwitzer is denied, however.

In light of the foregoing, it is

**ORDERED** that Davidoff Law's motion is granted to the limited extent that the issues of: (1) the appropriate division of legal fees in this matter between Davidoff Law and William Schwitzer & Associates, P.C.; and (2) whether plaintiff's discharge of Davidoff Law was "for cause," are referred to a JHO/Special Referee to hear and report with recommendations, except that, in the event of and upon the filing of a stipulation of the parties, as permitted by CPLR 4317, the JHO/Special Referee, or another person designated by the parties to serve as referee, shall determine the aforesaid issue; and it is further

**ORDERED** that the motion is otherwise denied; and it is further

**ORDERED** that this matter is hereby referred to the Special Referee Clerk (Room 119M, 646-386-3028 or spref@nycourts.gov) for placement at the earliest possible date upon the calendar of the Special Referee 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/supetmanh](http://www.nycourts.gov/supetmanh) at the “References” link under “Courthouse Procedures”), shall assign this matter 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 the movant shall, within fifteen days from the date of this Order, submit to the Special Referee Clerk by fax (212-401-9186) or email an Information Sheet (which can be accessed 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 Referee Part; and it is further

**ORDERED** that the parties shall appear for the reference hearing, including all witnesses and evidence they seek to present, and shall be ready to proceed, on the date first fixed by the Special Referee Clerk subject only to any adjournment, that may be authorized by the Special Referee Part in accordance with the Rules of that Part; and it is further

**ORDERED** that the determination of the issues so referred on this motion is held in abeyance pending receipt of the report and recommendations of the JHO/Special Referee and a motion to confirm or disaffirm the Report of the JHO/Special Referee timely made pursuant to CPLR 4403 and Section 202.44 of the Uniform Rules for Trial Courts; and it is further

**ORDERED** that the hearing will be conducted in the same manner as a trial before a Justice without a jury (CPLR 4318) (the proceeding will be recorded by a court reporter, the rules of evidence apply, etc.) and that the parties shall appear for a reference, hearing, including with all

