

186 Bleecker Prop. Owner LLC v Figaro NYC LLC

2025 NY Slip Op 33784(U)

October 1, 2025

Supreme Court, New York County

Docket Number: Index No. 153787/2025

Judge: Emily Morales-Minerva

Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op 30001(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. EMILY MORALES-MINERVA PART 42M

Justice

-----X INDEX NO. 153787/2025

186 BLEECKER PROPERTY OWNER LLC

MOTION DATE 09/14/2025

Plaintiff,

MOTION SEQ. NO. 006

- v -

FIGARO NYC LLC,

**DECISION + ORDER ON
MOTION**

Defendant.

-----X

The following e-filed documents, listed by NYSCEF document number (Motion 006) 71, 72, 73, 74, 75, 76, 92, 93, 94, 95, 96, 97, 98, 104

were read on this motion to/for REARGUMENT/RECONSIDERATION.

APPEARANCES:

Rosenberg & Estis, P.C., New York, NY (Alex M. Estis, Esq., of counsel), for plaintiff.

Wenig Saltiel, LLP, New York, NY (Dan M. Blumenthal, Esq., of counsel), for defendant.

HON. EMILY MORALES-MINERVA, J.S.C.:

This is a commercial landlord-tenant action for declaratory relief and an order of ejectment. Here, defendant FIGARO NYC LLC (commercial tenant) moves, by notice of motion (seq. no. 06), for an order granting reargument of plaintiff 186 BLEECKER PROPERTY OWNER LLC's motion (seq. no. 03). In motion seq. no. 03, 186 BLEECKER PROPERTY OWNER LLC (commercial landlord) sought an order (1) holding commercial tenant in civil contempt, pursuant to CPLR § 5104 and Judiciary Law § 753 (A) (3) for commercial tenant's failure to comply with a two-attorney

stipulation, dated May 09, 2025; (2) awarding commercial landlord attorneys' fees, pursuant to Judiciary Law § 773; (3) granting commercial landlord a judgment of possession of the premises; (4) issuing an order of ejectment against commercial tenant; (5) permitting commercial landlord to remove and discard the remaining personal property of commercial tenant; and (6) awarding commercial landlord a money judgment against commercial tenant, in the amount which has accrued from April 01, 2025 through and including the date owner-landlord recovers possession of the premises (see NYSCEF Doc. No. 50, Order to Show Cause, dated June 04, 2025).

Commercial tenant submitted written opposition to said motion, arguing only the issue of contempt (see NYSCEF Doc. No. 54, Affirmation of Dan M. Blumenthal, counsel of defendant, dated August 06, 2025, and Doc No. 55, Affirmation in Opposition of commercial tenant, dated August 06, 2025).¹ Commercial tenant raised no arguments against commercial landlord's other requests for relief, including, commercial landlord's request for an

¹Notably, the affirmation of counsel submitted in opposition to motion seq. no. 03 was not based on personal knowledge, but on counsel "appearing and negotiating the stipulation underlying the instant motion" (NYSCEF Doc. No. 54, Affirmation of Dan M. Blumenthal, dated August 06, 2025, at 1). Similarly, the affirmation of commercial tenant submitted in opposition to motion seq. no. 03 was also not based on personal knowledge, but on the affiant being "familiar with the facts and circumstances regarding the May 9, 2025 Stipulation and all prior proceedings" and "hav[ing] read the affirmation of my attorney, Dan Blumenthal, and adopt[ing] the factual assertions therein as my own" (NYSCEF Doc. No. 55, Affirmation in Opposition of commercial tenant, dated August 06, 2025, at 1, ¶ 2-3 [emphasis added]).

order, granting it a judgment of possession of the premises for failure to pay use and occupancy.

On the return date for motion seq. no. 03, the court heard oral arguments on the same, and marked the matter submitted for a determination. Later, this court granted commercial landlord's application, except to the extent that commercial landlord sought to hold commercial tenant in contempt and sought an award of attorneys' fees against commercial tenant (see NYSCEF Doc. No. 59, Decision and Order, dated August 13, 2025).

Now, commercial tenant files the instant motion to reargue motion sequence 03, "to the [limited] extent that [the court] granted a Judgment of Possession sounding in ejectment" (NYSCEF Doc. No. 71, Notice of Motion, dated September 14, 2025). Commercial landlord submits written opposition to the motion.

A motion to reargue "shall be based upon matters of fact or law allegedly overlooked or misapprehended by the court in determining the prior motion but shall not include any matters of fact not offered on the prior motion" (CPLR § 2221 [d] [2] [emphasis added]). "Reargument is not designed to afford the unsuccessful party successive opportunities to reargue issues previously decided . . . or to present arguments different from those originally asserted" (Setters v AI Properties and Developments (USA) Corp., 139 AD3d 492, 492 [1st Dept 2016] [emphasis added]; see also Pro Brokerage, Inc. v Home Ins. Co.,

99 AD2d 971, 971 [1st Dept 1984])). Further, the granting of a motion to reargue is left to the sound discretion of the Court, whose decision the moving party seeks to reargue (id.; see also Tyagi v Gadella, 202 AD3d 561 [1st Dept 2022])).

Here, commercial tenant presents arguments different from those originally asserted. In response to motion sequence number 03, commercial tenant focused exclusively on the contempt application, ignoring all other grounds for relief commercial landlord asserted therein. As commercial tenant raised no other argument previously, despite a full and fair opportunity to do so, it cannot now use CPLR § 2221 (d) (2) to get a second bite at the apple.

Accordingly, it is

ORDERED that defendant FIGAARO NYC LLC's motion for reargument (seq. no. 06) is denied; it is further

ORDERED that defendant shall serve a copy of this order with notice of entry on plaintiff 186 BLEECKER PROPERTY OWNER LLC within ten days of this order;

ORDERED that the parties shall appear for the previously scheduled hearing on October 23, 2025, at 11:00 A.M. in Part 42, Courtroom 574, located at 111 Centre Street, New York, New York; and it is further

ORDERED that the Clerk shall mark the file accordingly.

THIS CONSTITUTES THE DECISION AND ORDER OF THE COURT.

10/01/25
DATE


EMILY MORALES-MINERVA, 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