

**Twersky v Yeshiva Univ.**

2025 NY Slip Op 34979(U)

December 15, 2025

Supreme Court, New York County

Docket Number: Index No. 950111/2019

Judge: Alexander M. Tisch

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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. ALEXANDER M. TISCH PART 18

Justice

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MORDECHAI TWERSKY, BARRY SINGER, JAY
GOLDBERG, et al.,

Plaintiffs,

- v -

YESHIVA UNIVERSITY, MARSHA STERN TALMUDICAL
ACADEMY - YESHIVA UNIVERSITY HIGH SCHOOL FOR
BOYS, PAT DOE 1-30, MEMBERS OF THE BOARD OF
TRUSTEES OF YESHIVA UNIVERSITY, in their official and
individual Capacities, whose identities are presently
Unknown to Plaintiffs, NORMAN LAMM, in his official and
individual capacity, and ROBERT HIRT, in his official and
individual capacity,

Defendants.

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INDEX NO. 950111/2019
MOTION DATE 9/2/2025
MOTION SEQ. NO. 012

DECISION + ORDER ON
MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 012) 313-328, 338-343
were read on this motion to/for RENEW/REARGUE

Defendants move pursuant to CPLR 2221 to renew and reargue the decision of this Court
in Motion Sequence 011 granting plaintiff's motion to compel the production of the contents of
the computer database with collected digital documents and the entire tranche of scanned
documents provided to Sullivan & Cromwell for their investigation of alleged sexual abuse
related to defendants Yeshiva University and/or Yeshiva University High School for Boys.

A motion for leave to renew must be based on evidence establishing "new facts not
offered on the prior motion that would change the prior determination" (CPLR § 2221 [e] [2]), as
well as "reasonable justification" for not offering these facts previously (CPLR § 2221 [e] [3];
CLP Leasing Co. v Nessen, 27 AD3d 291, 292 [1st Dept 2006]). Although, upon a motion for

renewal seeking consideration of previously available but unsubmitted evidence, the Movant is generally required to proffer a reasonable excuse for its failure to submit such evidence (*see, Burgos v City of New York*, 294 AD2d 177 [1<sup>st</sup> Dept 2002]; *Chelsea Piers Management v Forest Electric Corp.*, 281 AD2d 252 [1<sup>st</sup> Dept 2001]), a motion to renew can be granted in the exercise of the court's discretion, even where new evidence was readily available to the moving party on the earlier motion and the only excuse proffered for the failure to furnish such evidence to the court is inadvertence or ignorance or even when no excuse is offered (*see, Martinez v Urban Renaissance Collaboration Ltd. Partnership*, 227 AD3d 475, 476 [1st Dept 2024]; *Trinidad v Lantiqua*, 2 AD3d 163 [1<sup>st</sup> Dept 2003]; *Mejia v Nanni*, 307 AD2d 870 [1<sup>st</sup> Dept 2003]).

“Nevertheless, ‘[a] motion for leave to renew is not a second chance freely given to parties who have not exercised due diligence in making their first factual presentation’” (*Allstate Ins. Co. v Liberty Mut. Ins. Co.*, 58 AD3d 727, 728 [2d Dept 2009], quoting *Elder v Elder*, 21 AD3d 1055 [2d Dept 2005]).

Similarly, the standards for reargument are well settled. “A motion for leave to reargue pursuant to CPLR 2221 is addressed to the sound discretion of the court and may be granted only upon a showing that the court overlooked or misapprehended the facts or the law or for some reason mistakenly arrived at its earlier decision” (*William P. Pahl Equip. Corp. v Kassis*, 182 AD2d 22, 27 [1st Dept 1992] [quotations omitted]). Motions for reargument must be based upon facts or law overlooked or misapprehended by the court on the prior decision (*see* CPLR § 2221; *Mendez v Queens Plumbing Supply, Inc.*, 39 AD3d 260 [1st Dept 2007]; *Carillo v PM Realty Group*, 16 AD3d 611 [2d Dept 2005]). Reargument is not a proper vehicle to present new issues that could have been, but were not raised, on the prior motion or to afford an unsuccessful party successive opportunities to rehash arguments previously raised and considered (*see People v*

*D'Alessandro*, 13 NY3d 216, 219 [2009]; *Toukara v Fernicola*, 63 AD3d 648, 649 [1st Dept 2009]; *Lee v Consolidated Edison Co. of N.Y.*, 40 AD3d 481, 482 [1<sup>st</sup> Dept 2007]).

Plaintiff's application is denied for reasons as set forth on the record. Neither new facts were presented nor was any element overlooked or misapprehended. The Court also denies the defendant's application pursuant to CPLR 5519 (c) for a stay pending appeal and/or a protective order pursuant to CPLR 3103 for the reasons set forth on the record.

Defendant's cross-motion to set a deadline for production of the database, the appointment of a referee to monitor the process, establish a privilege protocol and for conditional sanctions is granted to the following extent:

The Court will maintain its order that the database will be provided to the plaintiffs for searches. In light of the extremely large number of documents involved (estimated 3.5 million), and in light of defendant's concern about the challenge of reviewing all of these documents for production, after plaintiffs search the database and review the results of the search, any documents plaintiffs intend to extract will be provided to defendants to review for privilege and/or confidentiality to be logged. A strict confidentiality protocol will be enacted to have all documents in the database declared confidential with a procedure to remove confidentiality for use in motions and/or trial, and to allow for the clawback of documents deemed privileged. To supervise this process, the Court appoints special referee Molly Sanghee Lundberg as Special Master, who is empowered to amend this procedure as is appropriate to the situation.

The parties are to email Special Referee Sanghee Lundberg by email to [mlundberg@nycourts.gov](mailto:mlundberg@nycourts.gov) within 7 days of the filing of this Decision and Order to set up a meeting to establish a protocol for this database discovery process.

This constitutes the decision and order of the Court.



12/15/2025

DATE

ALEXANDER M. TISCH, J.S.C.

CHECK ONE:

CASE DISPOSED

GRANTED

SETTLE ORDER

INCLUDES TRANSFER/REASSIGN

DENIED

NON-FINAL DISPOSITION

GRANTED IN PART

SUBMIT ORDER

FIDUCIARY APPOINTMENT

OTHER

REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: