

443 Park Ave. S., LLC v Lawlor Media Group, Inc.

2026 NY Slip Op 30158(U)

January 14, 2026

Supreme Court, New York County

Docket Number: Index No. 652063/2021

Judge: Arlene P. Bluth

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**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. ARLENE P. BLUTH PART 14

Justice

-----X

443 PARK AVENUE SOUTH, LLC F/K/A 443 COMPANY,

Plaintiff,

- v -

LAWLOR MEDIA GROUP, INC., NORAH LAWLOR

Defendant.

-----X

INDEX NO. 652063/2021

MOTION DATE N/A

MOTION SEQ. NO. 001

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 001) 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53

were read on this motion to/for JUDGMENT - SUMMARY.

Plaintiff’s motion for summary judgment is granted in part and denied in part and the cross-motion by defendants is granted.

Background

In this commercial landlord/tenant case, plaintiff (the landlord) seeks to recover unpaid rent from Lawlor Media Group, Inc. (the “Tenant”) and the individual defendant Lawlor (the “Guarantor”). It claims that \$69,825.67 is owned for the premises leased by the Tenant at the building owned by plaintiff.

Defendants cross-move for partial summary judgment dismissing the claims premised on the guaranty. They claim that the COVID-19 pandemic caused its business- a public relations firm—to suffer financially. Defendants argue that they would not have signed an extension of the lease if they knew the pandemic would significantly curtail their business. They contend that they sent two checks in advance of when they abandoned the premises on May 31, 2020. One

was for \$9,452.73 (the rent payment) and the second was for \$7,777.50 (the same amount plaintiff was holding in security but was not applied to pre-surrender arrears).

Defendants argue that they paid the full amount due prior to leaving the premises and turned in the door passes and keys. They contend that they did not hear back until January 2021 but that plaintiff cashed the rent check. Defendants maintain that the January 25, 2021 letter claimed that defendant Lawlor was on the hook for the \$7,777.50—they theorize that plaintiff must have lost the check for this amount. Defendants claim that Lawlor issued another check for \$7,777.50, which was cashed on February 1, 2021.

Defendants argue that the guaranty was a good guy guaranty, meaning that as long as they properly surrendered the property and paid up the outstanding arrears, the Guarantor would not be liable. They insist that they gave prompt notice in April 2020 that they would be leaving the building at the end of May 2020. Defendants claim they were assured they would not be sued on the guaranty given the checks they sent.

In reply, plaintiff emphasizes that defendants only sent one check in June 2020 and that defendants sent a cover letter detailing that there was only one check enclosed. Plaintiff insists that, therefore, the Guarantor never fully complied with the terms of the limited guaranty and both the Tenant and the Guarantor remain liable for arrears accrued under the terms of the lease. Plaintiff denies that it ever promised not to enforce the guaranty.

In reply to her cross-motion,¹ defendants contend that the cover letter enclosing the last rent check failed to mention the separate \$7,777.50 check because the company's computer equipment was packed up in order to finish moving out of the space and they did not update the

¹ As this Court prefers to decide motions on the merits, the Court will consider the reply to the cross-motion.

letter. Defendants point to a check log that they claim shows the \$7,777.50 check was sent at the same time as the final rent payment in May 2020.

Background

Before the Court delves into the merits, the Court must acknowledge the elephant in the room: that these motions have been pending for more than four years after being fully briefed. That, of course, is inexcusable and this Court was horrified to discover this pending motion when this case was transferred to the undersigned last month. On behalf of the Court system, this Court profusely apologizes for the undue delay in the issuance of this decision. Now, finally, on to the merits.

Claims Against the Tenant

The Court grants plaintiff's motion as against the Tenant. There is no dispute that the Tenant stopped paying rent after it vacated the premises. Defendants' claims about the pandemic, and the doctrines of frustration of purpose and impossibility, are well taken but they do not constitute an issue of fact. Many appellate courts have rejected these doctrines as a basis to avoid rent obligations (*see Gap, Inc. v 170 Broadway Retail Owner, LLC*, 195 AD3d 575, 577, 151 NYS3d 37 [1st Dept 2021]).

The Court has no doubt that the pandemic severely affected defendants' business, as it did many businesses. However, caselaw has consistently held that the pandemic is not a valid justification for not paying rent. The Court finds that the affirmative defenses, at least as asserted on behalf of the Tenant, are therefore without merit.

Claims Against the Guarantor

The parties do not dispute that the guaranty was a limited one (often called a Good Guy guaranty), meaning that the Guarantor could avoid personal liability if the Tenant surrendered the premises, paid up what was owed, and returned the keys (NYSCEF Doc. No. 13).

The central dispute here concerns the \$7,777.50 amount due. Defendants contend that they sent a check for this amount that plaintiff must have lost and point to a check log as proof they made all payments prior to vacating the premises (NYSCEF Doc. No. 31). Plaintiff argues that the cover letter enclosing the final rent payment did not make any mention of this separate \$7,777.50 check and so the Guarantor should remain liable.

Whether the \$7,777.50 check was sent and lost or not sent in May 2020 is not a material issue of fact because the discussion about this \$7,777.50 did not stop in 2020. Rather, plaintiff gave defendant another chance to replace the check/pay the money when it sent a letter in January 2021 to the Guarantor warning that “you remain personally liable for the \$7,777.50 of rent arrears owed by the Tenant when it vacated pursuant to the terms of your "Good Guy" Guaranty of the Lease (the "Guaranty")” (NYSCEF Doc. No. 35). Notably, plaintiff did not say, and did not even come close to declaring that the Guarantor was now on the hook for the entire amount of the Tenant’s arrears. Rather, that letter clearly says that the guarantor owes the \$7,777.50 and the tenant owes over \$53,000 (*id.*). It demanded “payment of the rent owed or a good faith offer of payment before February 1, 2021” (*id.*).

In response to that letter, defendants immediately sent a check for \$7,777.50 and include proof of this check dated January 29, 2021 (NYSCEF Doc. No. 36); plaintiff does not deny receiving this check, accepting it and cashing it.

On the above record, the Court grants summary judgment only as to the Guarantor. That is, the Guarantor is not liable as she complied with plaintiff's demand to pay the \$7,777.50—the amount for which plaintiff said she had personal liability. The Court is unable to find that the Guarantor remains liable for the arrears of the Tenant under these circumstances. Otherwise, it would make little sense for the plaintiff to state that the Guarantor owed only \$7,777.50.

That fact that the Guarantor sent the check for the amount that plaintiff demanded and that plaintiff cashed that check constitutes an accord and satisfaction compelling the Court to grant the cross-motion with respect to the Guarantor (*see Complete Messenger & Trucking Corp. v Merrill Lynch Money Markets, Inc.*, 169 AD2d 609, 610 [1st Dept 1991] [finding an accord and satisfaction where a party accepted a settlement check]).

Accordingly, it is hereby

ORDERED that plaintiff's motion for summary judgment is granted only as against Lawlor Media Group, Inc. and the Clerk is directed to enter judgment in favor of plaintiff and against this defendant in the amount of \$69,825.67 plus statutory interest from May 31, 2021 along with costs and disbursements upon presentation of proper papers therefor; and it is further

ORDERED that plaintiff's demand for reasonable legal fees is severed and plaintiff shall make a separate motion for such fees on or before January 30, 2026; and it is further

ORDERED that defendants' cross-motion for summary judgment dismissing the claims against individual defendant Lawlor is granted and the Clerk is directed to enter judgment

accordingly in favor of defendant Norah Lawlor and against plaintiff along with costs and disbursements upon presentation of proper papers therefor.

1/14/2026

DATE



ARLENE P. BLUTH, 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