

<b>Alevy v JPMorgan Chase &amp; Co.</b>
2026 NY Slip Op 30175(U)
January 13, 2026
Supreme Court, New York County
Docket Number: Index No. 155357/2022
Judge: Lynn R. Kotler
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**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK: PART 8**

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ALLEN ALEVY, et al.,

Petitioner(s),

-against-

JPMORGAN CHASE & CO., et al.,

Respondent(s),

RIFKA HERZ, et al.,

Notice Respondents-  
Judgment Debtor.

**INTERIM DECISION  
AFTER TRIAL**

INDEX No.: 155357/2022

MOT. SEQ. No.: 001

Present:

Hon. Lynn R. Kotler, J.S.C.

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This is a special proceeding for turnover pursuant to CPLR 5225[b].

By way of background, on July 27, 2018, petitioners/judgment creditors Allen Alevy, Deanna Alevy, and Amusement Industry Inc. d/b/a Westland Real Estate Group (collectively, "Alevy" or "petitioners") obtained a money judgment in the sum of \$600,000 against notice-respondent Rifka Herz in the Superior Court of California, County of Los Angeles. The judgment was domesticated in the New York Office of the Clerk of the County of New York with a transcript of judgment thereafter docketed in New York County, via Index No. 158691/2021 on September 24, 2021.

Alevy then filed the instant action against respondent JP Morgan Chase & Co. ("Chase" or "garnishee") seeking an order directing Chase to open, break open or permit the Sheriff of New York County to break open three safe deposit boxes, 221, 2212, and 163, maintained in the name of the judgement debtor, Rifka Herz, in order to

satisfy the \$600,000 judgment. In a response to an information subpoena served by petitioner on Chase, notice-respondents Rifka Herz and Moshe Herz are named on two safe deposit boxes—2212 and 163—and notice-respondents Lillian Herz and Rifka Herz are named on safe deposit box 221.

In an interim order dated April 27, 2023, the court adjourned the petition to June 20, 2023, for oral argument and directed the parties to file sur-replies.

In a subsequent order dated August 22, 2023, the court ordered that an evidentiary hearing be conducted on October 18, 2023, to determine whether Rifka Herz was added to the three safe deposit boxes held by Chase, as Garnishee, as a matter of convenience and not with the intention of conferring any beneficial property interest on Rifka Herz.

On October 11, 2023, notice-respondents' attorney filed an Order to Show Cause to be relieved (MOT SEQ 005), which was opposed by Herz and petitioner. In an order dated April 9, 2024, the court granted motion sequence 5 and adjourned the petition (MOT SEQ 001) and the evidentiary hearing to May 21, 2024.

Notice-Respondents retained new counsel soon thereafter, but new counsel also then moved to be relieved (MOT SEQ 006), which application was granted by order dated October 11, 2024. The petition and evidentiary hearing were again adjourned to December 3, 2024. Thereafter, at the request of Notice-Respondents, the petition and evidentiary hearing were further adjourned to February 4, 2025.

Notice-Respondents retained new counsel, Jonathan Neuman, who filed a notice of appearance on February 4, 2025 (NYSCEF 135). In an interim order dated February 6, 2025, the court again adjourned the petition and evidentiary hearing to April 8, 2025.

Notice-Respondents' counsel thereafter requested a further brief adjournment because he had not received responsive documents pursuant to a subpoena served upon non-party TD Bank. The court granted counsel's request and adjourned the petition and evidentiary hearing to April 29, 2025.

The evidentiary hearing was finally held via Microsoft Teams on April 29 and May 7, 2025. Petitioner called the following witnesses: Claude Bryant, a representative of JP Morgan Chase Bank, and notice-respondents Rifka Herz, Lillian Herz, and Moshe Herz.

At the conclusion of the hearing, the court reserved decision and ordered the parties to submit post-hearing memoranda of law, with a directive that the parties file a briefing schedule for their post-hearing submissions by May 14, 2025. The court did not timely receive the briefing schedule and, by order dated July 11, 2025, directed the parties to provide the court with their briefing schedule by July 18, 2025. In a joint letter dated July 17, 2025, the parties agreed to submit their post-hearing memoranda by August 12, 2025.

Post-hearing memoranda were thereafter submitted by notice-respondents on August 12, 2025, and by petitioners on August 13, 2025. In their post-hearing brief, petitioners contend that notice-respondents failed to rebut the statutory presumption of joint ownership pursuant to Banking Law § 675 by demonstrating that Rifka Herz was added to the subject safe deposit boxes for mere convenience; that the parties named on the three safe deposit boxes were therefore joint owners; and that, as a result, the court should direct the Sheriff to open the three safe deposit boxes and turnover the contents thereof to the Sheriff to satisfy the outstanding judgment. Notice-Respondents, by contrast, contend that Rifka's name was added to the three safe

deposit boxes for mere convenience and that Rifka has no actual ownership interest in the contents thereof.

Based upon the testimony and evidence introduced at the hearing, the court makes the following limited findings of fact and conclusions of law.

As an initial matter, the court will address safe deposit box 221, which is held in the names of Lillian Herz and Rifka Herz. Safe deposit box 221 was opened in February 1978 (NYSCEF 59). The court finds that Lillian Herz credibly testified that she added her eldest daughter Rifka on the safety deposit box when Rifka turned 18 years old in 1996 in case something should happen to her (Lillian). Lillian did not believe Rifka ever attempted to access the box other than when she accompanied Lillian to the bank to sign her name to the signature card for the subject box in 1996. Lillian's testimony was corroborated by the Chase representative, Claude Bryant, who testified, based on the records maintained by the bank, that Rifka signed the safe deposit box agreement in 1996 and there is no evidence that Rifka ever attempted to access the box in the 30 years since. Rifka likewise testified that, aside from signing the signature card at the bank in 1996 when she turned 18, she never accessed her mother's safe deposit box.

Based on the credible testimony of Lillian Herz, Rifka Herz, and Chase representative Claude Bryant, notice-respondents have satisfied their burden of establishing that Rifka's name was added to the account for safe deposit box 221 solely as a matter of convenience, and that Rifka does not have an actual interest in the contents of that safe deposit box (*see New York Community Bank v Bank of Am., N.A.*, 169 AD3d 35, 38 [1st Dept. 2019]). Therefore, the portion of petitioners' application that

seeks an order directing the sheriff to break open/access safe deposit 221 and turn over the contents thereof to petitioners is denied, and the freeze/lien on safe deposit box 221 maintained at JP Morgan Chase Bank, located at 2438 Broadway, New York, New York, is lifted.

The court will now address the remaining two safe deposit boxes, 2212 and 163. Safe deposit box 2212 was opened on either November 21, 2017, or March 26, 2018 (NYSCEF 112, 144, 146), in the names of both Rifka and Moshe. Box 163 was opened on March 26, 2018 (NYSCEF 111), in both Moshe's and Rifka's names. Neither Moshe nor Rifka ever accessed box 2212 or box 163 from the time the two boxes were initially opened up until Rifka learned, in June 2022, that there was a freeze on the boxes.

The court heard testimony from Moshe and Rifka regarding the contents of boxes 2212 and 163. Both generally testified that the boxes contain money, jewelry, family memorabilia, and documents, as well as other assorted items. However, the specific contents of the boxes were unclear from Rifka's and Moshe's testimony other than what is referenced herein.

Given the lack of specificity of the testimony regarding the contents of the subject boxes, the court finds that an examination and inventory of safe deposit boxes 2212 and 163 is necessary to aid the court in reaching a proper resolution of this proceeding. Absent such an examination and inventory, the court is unable to decide this application with precision by identifying and distinguishing between those items in the boxes with actual monetary value, which may reasonably be used to satisfy petitioners' judgment, as opposed to those items that are clearly familial in nature, or of purely sentimental value, or exclusively of a documentary purpose (e.g., birth certificates, death

certificates, etc.).

The examination and inventory of safe deposit boxes 2212 and 163 shall be conducted by two officers of Respondent JP Morgan Chase and Notice-Respondents Rifka Herz and Moshe Herz on or before January 31, 2026. Respondent and Notice-Respondents are prohibited from photographing, videoing, audiotaping or removing any items contained within the two safe deposit boxes during the examination and inventory process. On or before February 4, 2026, Respondent JP Morgan Chase shall provide the court an inventory of each safe deposit box's contents for *in camera* review.

Based on the foregoing, it is hereby

**ORDERED** that the petition is denied to the extent it seeks an order directing the Sheriff to break open, access, and turn over to petitioners the contents of safe deposit box 221 in the names of Lillian Herz and Rifka Herz maintained at JP Morgan Chase Bank, located at 109 Delancy Street, New York, New York, and the court reserves decision on the remainder of the petition; and it is further

**ORDERED** that the freeze/lien on safe deposit box 221 maintained at JP Morgan Chase Bank, located at 109 Delancy Street, New York, New York, is hereby lifted forthwith; and it is further

**ORDERED** that, on or before January 31, 2026, Respondent JP Morgan Chase shall conduct an examination and inventory of the contents of safe deposit boxes 2212 and 163 in the presence of both Notice-Respondents Rifka Herz and Moshe Herz, and that Notice-Respondents Rifka Herz and Moshe Herz shall both appear at Chase to observe the examination and inventory conducted by Chase; and it is further

**ORDERED** that the parties are prohibited from photographing, videoing,

audiotaping or removing any of the contents of safe deposit boxes 2212 or 163 during the examination and inventory thereof; and it is further

**ORDERED** that, on or before February 4, 2026, respondent JP Morgan Chase shall provide the court a separate inventory of each safe deposit box's contents for *in camera* review.

This constitutes the Decision and Order of the court.

Dated: New York, New York  
January 13, 2026

So Ordered:



**Hon. Lynn R. Kotler, J.S.C.**