

Waxstein v Mesivtha Tifereth Jerusalem of Am.

2026 NY Slip Op 30231(U)

January 15, 2026

Supreme Court, New York County

Docket Number: Index No. 657219/2017

Judge: Arlene P. Bluth

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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. ARLENE P. BLUTH PART 14

Justice

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ARTHUR WAXSTEIN

Plaintiff,

- v -

MESIVTHA TIFERETH JERUSALEM OF AMERICA,

Defendant.

-----X

INDEX NO. 657219/2017

MOTION DATE N/A

MOTION SEQ. NO. 010

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 010) 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 310

were read on this motion to/for PARTIES - ADD/SUBSTITUTE/INTERVENE.

The motion by Deborah Jonas to substitute herself as trustee for the plaintiff as he has unfortunately passed away is granted.

Background

This action concerns plaintiff’s request for the return of funds he allegedly deposited with defendant, a non-profit. He claims he deposited more than \$1 million prior to January 1, 2017 on the promise that he would have access to these funds in the future. Plaintiff insists that this money is now worth over \$6 million as it was held in a brokerage account. He contends that defendant never accepted these funds as a charitable contribution and he had only nominal funds to live on.

In this motion, Deborah Jonas (“Movant”) moves to substitute herself as the trustee for a trust created by plaintiff as plaintiff passed away on February 8, 2022 in Israel. Movant insists

that a trust agreement was created on November 18, 2020 and that the trust agreement states that Movant was to become the trustee upon his death. Movant also points out that plaintiff signed, also on November 18, 2020, an assignment and acceptance of interest in a litigation matter which assigned any interest in this litigation to the trust.

In opposition¹, defendant complains that the attorneys for plaintiff continued to appear for, and litigate on behalf of, plaintiff despite the fact that the interest in this litigation was transferred to the trust. It argues there never should have been a stay of the proceedings or a motion for a special preference. Defendant argues that the trust explicitly mentions that plaintiff was estranged from certain grandchildren and emphasizes that it did not find out about this trust for years after its execution. It hired a “document examiner” to look at the signatures on the trust and assignment and that this individual claims that plaintiff did not sign the documents, making them forgeries.

In reply, an attorney for plaintiff (Mr. Garbuz) says he personally witnessed plaintiff sign two letters in 2017 that defendant’s “document examiner” claims plaintiff did not sign. Mr. Garbuz points out that the trust documents were witnessed by two individuals and emphasizes that Mr. Waxstein’s only asset is a recovery in this action. Movant also includes the affidavits of both of the witnesses to the trust and the assignment (NYSCEF Doc. Nos. 286, 290) who claim that plaintiff did, in fact, sign both documents. Plaintiff hired a handwriting expert who claims that the signatures are authentic and show that Mr. Waxstein signed the documents.

Discussion

Before the Court addresses the merits, it must address the elephant in the room: this motion has been pending for far too long. It was fully briefed before the judge previously

¹ The opposition was not filed under any sequence number and so the Court assumes that the documents filed by defendant on August 11, 2022 are the opposition to this motion.

assigned to this case in September 2022 and yet nothing happened until that judge retired and the undersigned received hundreds of cases last month. This Court was horrified to discover this motion upon its reassignment in December 2025. On behalf of the court system, this Court sincerely apologizes for this undue delay. There are no excuses. The only thing this Court can do is give the parties what you are entitled to: a decision.

On this record, the Court grants the motion. Movant properly established the authenticity of the trust and the assignment documents by including affidavits from the witnesses listed on those records.

In this Court's view, defendant does not have a basis to challenge the substitution of the trust on the ground of an alleged forgery as defendant is not a beneficiary of the trust (*c.f. In re Estate of Gottlieb*, 75 AD3d 99, 104, 902 NYS2d 505 [1st Dept 2010] [noting that an individual not named as a beneficiary in a will does not have standing to file objections to probate]). The Court finds that principle applies here—it does not matter, for defendant's purposes, which entity is substituted for plaintiff.

If plaintiff is ultimately successful and defendant must make a payment of some amount, then subsequent actions may be taken to ameliorate any concerns about the alleged legitimacy of the trust. Of course, that would require a possible beneficiary of plaintiff's estate to raise a valid objection concerning the formation of the trust. In that scenario, any money paid by defendant could be deposited into court or into an escrow account while the objections were resolved, either in this forum or in another litigation. But, again, any disputes about the trust have nothing to do with defendant.

If someone who would benefit if the trust were voided wanted to challenge the trust, (such as someone who would inherit if there was no trust), then that is a different case, not this

one. Here, the plaintiff has died and either the trustee is substituted or a representative of the estate would be substituted. Either way, this litigation is about the agreement between the decedent and the defendant. Defendant has not demonstrated why it matters who represents the interests of Mr. Waxstein.

Accordingly, it is hereby

ORDERED that the motion by Deborah Jonas is granted and all stays are hereby lifted; and it is further

ORDERED that the caption is hereby amended to reflect the plaintiff is Deborah Jonas, as Trustee of the Arthur Waxstein Revocable Trust; and the caption shall read as:

ORDERED that the caption of the remaining action will be:

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: PART 14**

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**DEBORAH JONAS, AS TRUSTEE OF THE ARTHUR
WAXSTEIN REVOCABLE TRUST,**

Plaintiff,

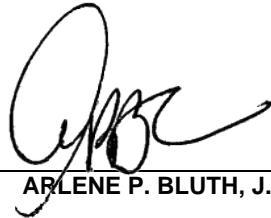
-against-

MESIVTHA TIFERETH JERUSALEM OF AMERICA,

Defendant.

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As a note of issue has already been filed, the next appearance will be the pre-trial conference part.

<u>1/15/2026</u> DATE					 ARLENE P. BLUTH, J.S.C.
CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION	
	<input checked="" type="checkbox"/>	GRANTED	<input type="checkbox"/>	GRANTED IN PART	<input type="checkbox"/> OTHER
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>	SUBMIT ORDER	
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input type="checkbox"/> REFERENCE