Department of Hous. Preserv. & Dev. of the City of N.Y. v Singh
2026 NY Slip Op 30510(U)
January 14, 2026
Civil Court of the City of New York, Bronx County
Docket Number: Index No. LT-316487-24/BX
Judge: Diane E. Lutwak
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CIVIL COURT OF THE CITY OF NEW YORK
BRONX COUNTY: HOUSING PART T

----------X Index # LT-316487-24/BX

DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT OF THE CITY OF NEW YORK,
Petitioner,

-against-

DECISION/ORDER

KARAN SINGH
RAJMATTIE PERSAUD A/K/A RAJMATTIE PERSAUD SINGH
SEAN CAMPBELL
RAFAEL BAEZ
FORDHAM FULTON REALTY, CORP
Respondents.

Premises:
2410 Washington Avenue, Bronx, NY 10458
A/K/A 480 East 188th Street, Bronx, NY 10458

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Hon. Diane E. Lutwak, HCJ:

Recitation, as required by CPLR Rule 2219(a), of the papers considered in the review of Petitioner's motion for sanctions (m seq #10):

Papers	Doc #/NYSCEF Doc #
Notice of Motion for Sanctions	1/200
Attorney's Affirmation in Support	2/201
Exhibits 1A-6 in Support	3-11/202-210
Attorney's Affirmation in Opposition	12/222
Attorney's Reply Affirmation	13/223
Exhibits 7-8 in Reply	14-15/224-225
Attorney's Corrective for Reply Affirmation	16/234

For the following reasons, Petitioner's motion for sanctions under 22 NYCRR § 130-1.1 ("Rule 130") or, alternatively, attorneys' fees under Judiciary Law §§ 773 and 853(A)(1), against Respondents and their counsel is granted as set forth below.

PROCEDURAL HISTORY

This is a proceeding to enforce the New York State Multiple Dwelling Law (MDL) and the New York City Housing Maintenance Code (HMC), commenced by the Department of Housing Preservation and Development of the City of New York (Petitioner or DHPD) against the owners of a residential apartment building (Respondents) located at 2410 Washington Avenue a/k/a 480 East 188th Street in the Bronx, New York (the subject premises or building). The Petition,

filed April 22, 2024 [NYSCEF Doc # 1], sought relief on four claims: an Order to Correct existing violations of the HMC within time frames set by HMC § 2115(c) or be subject to daily civil penalties under HMC § 2115(a); civil penalties pursuant to HMC § 2115(a) for failure to timely correct previously placed immediately hazardous and hazardous violations, at the lower statutory rates in effect for those issued prior to December 8, 2023 and the higher statutory rates in effect for those issued on or after that date[1]; injunctive relief against tenant harassment pursuant to HMC §§ 2004(a)(48), 2005(d) and 2120(a) and MDL § 306(1); and a finding of tenant harassment with an award of civil penalties pursuant to HMC § 2115(m).

On August 5, 2024 Housing Court Judge Arrindell issued an Order to Correct on default (8/5/24 OTC)[NYSCEF Doc # 17] and transferred Petitioner's remaining claims to Part X for assignment to a trial part. Respondents then appeared by counsel and entered into a Consent Order with Petitioner that was so-ordered in Trial Part T by Housing Court Judge Scott-McLaughlin on December 5, 2024 (12/5/24 CO)[NYSCEF Doc # 28]. Both of these Orders included schedules for correcting violations broken down into two categories: lower rates for those violations issued prior to December 8, 2023 and higher rates for violations issued on or after December 8, 2023. The 8/5/24 OTC was based on a Violation Summary Report (VSR) dated July 25, 2024 (7/25/24 VSR) listing 548 violations (117 "non-hazardous"/Class A; 281 "hazardous"/Class B; 150 "immediately hazardous"/Class C). The 12/5/24 CO was based on a VSR dated October 31, 2024 (10/31/25 VSR) listing 505 violations (102 Class A; 279 Class B; 124 Class C); included a withdrawal of Petitioner's claims for tenant harassment; and settled Petitioner's claim for civil penalties as to fifteen violations with long-past correction dates for $100,000, to be paid off by three dates - $33,000 by 12/31/24, $33,000 by 2/28/25 and $34,000 by 4/31/25 - and, if not so paid, Respondents' consent to "entry of judgment against them without further notice in the amount of $1,000,000.00 after service of an eight-day notice to cure by e-mail to sedelstein@novickedelstein.com and canthony@novickedelstein.com, if the default continues after the 8 day period".

On April 2, 2025 Petitioner filed an application for entry of a judgment for $1,000,000 against Respondents [NYSCEF Doc ## 46-50], supported by its Attorney's Affirmation asserting

[1] New York City Local Law No. 71 for the year 2023 substantially increased penalties for violations issued by DHPD under HMC § 27-2115(a). Local Law 71 also amended HMC § 27-2115(f)(3) – the subsection which deems violations to have been corrected 70 days from the date of DHPD's receipt of an owner's certification of correction, unless DHPD re-inspects during that 70-day period and notifies the owner that the certification has been set aside – to exempt from the 70-day rule up to 100 buildings where DHPD found the owner to have falsely certified as corrected a certain number of hazardous or immediately hazardous violations. These 100 buildings are placed on a DHPD "Certification Watchlist", an enhanced enforcement program. The subject building is on DHPD's 2025 "Certification Watchlist". *See* Certification Watchlist_Year1_List_website.xls

that Petitioner was entitled to entry of that judgment as Respondents had failed to make the second payment by February 28, 2025 as required by the 12/5/24 CO, and Petitioner had emailed Respondents' counsel the agreed-upon eight-day notice to cure on March 11, 2025. The Court granted this application by Decision/Order dated May 13, 2025 (5/13/25 D/O) [NYSCEF Doc # 83].

On April 8, 2025[2] Petitioner moved for contempt and additional civil penalties. Respondents opposed the motion and cross-moved for an order extending their time to complete repairs. These motions were argued and marked submitted on May 8, 2025. By Decision/Order dated May 27, 2025 (5/27/25 D/O)[NYSCEF Doc # 86] the Court granted Petitioner's motion, denied Respondents' cross-motion and found Respondents to be in civil and criminal contempt for disobeying the 8/5/24 OTC and the 12/5/24 CO. Among other relief, Petitioner was ordered to submit a proposed judgment against Respondents for civil penalties and attorneys' fees.

On June 2, 2025, Petitioner filed its proposed judgment for civil penalties in the amount of $10,114,700 [NYSCEF Doc # 88] for violations open as of the 5/27/25 D/O, noting in footnote 2 that the penalties were calculated pursuant to HMC § 27-2115, as amended[3], using the lower penalty rates in effect through December 8, 2023 and the higher rates for violations issued on or after that date. The proposed judgment further explains in footnote 3 that it "does not include and is without prejudice to HPD's right to seek civil penalties for heat and hot water violations, lead paint violations, and violations that were closed prior to the date of the Court's May 27, 2025 Decision/Order but were not timely corrected under either the Order to Correct or Consent Order." The proposed judgment breaks down the amount sought as follows:

- Covered by the 7/25/24 VSR and the 8/5/24 OTC, issued on or after 12/8/23:
    - 3 Class A Violations, $150 per violation plus $25/day/violation; open for 205 days after the 11/3/24 deadline for correction ($15,825)
    - 24 Class B Violations, $500 per violation plus $125/day/violation; open for 265 days after the 9/4/24 deadline for correction ($807,000)
    - 18 Class C Violations, $1200 per violation plus $1200/day/violation; open for 294 days after the 8/6/24 deadline for correction ($6,372,000)
- Covered by the7/25/24 VSR and the 8/5/24 OTC, issued before 12/8/23:
    - 96 Class A Violations, $50 per violation ($4,800)

[2] Petitioner's contempt motion by Order to Show Cause filed on April 8, 2025 substituted for an earlier similar motion Petitioner filed on March 7, 2025 with a return date of April 7, 2025 which was withdrawn because it lacked the eight-point bold type warning on the first page required by Judiciary Law § 756.

[3] The proposed judgment included, at footnote 2, a citation and a live link to HMC § 27-2115 as amended by Local Law 71 of 2023 (*see* fn 1, *supra*).

  - 121 Class B Violations, $100 per violation plus $10/day/violation; open for 265 days after the 9/4/24 deadline for correction ($332,750)
  - 42 Class C Violations, $150 per violation plus $125/day/violation; open for 294 days after the 8/6/24 deadline for correction ($1,549,800)
- Covered by the 12/5/24 CO, not already covered by the 8/5/24 OTC:
  - 11 Class B Violations, $500 per violation plus $125/day/violation; open for 143 days after the 1/4/25 deadline for correction ($202,125)
  - 4 Class C Violations, $1200 per violation plus $1200/day/violation; open for 172 days after the 12/6/24 deadline for correction ($830,400)

Petitioner also filed a proposed judgment for $5450 in attorneys' fees on June 2, 2025, as per the 5/27/25 DO. Further, Petitioner filed a revised proposed judgment for $1,000,000 based on Respondents' payment default under the 12/5/24 CO [NYSCEF Doc # 95], similar to the one it had filed on April 2, 2025 [NYSCEF Doc # 50] but including a reference to the Court's May 13, 2025 D/O granting the application.

After receiving notice of Petitioner's filing of the proposed judgments, by Decision/Order of June 2, 2025 (6/2/25 D/O)[NYSCEF Doc # 96] the Court *sua sponte* gave Respondents an opportunity to file a proposed Counter Civil Penalties Judgment, by June 20, 2025. Respondents filed no papers by the deadline and the Court turned the matter over to the Clerk's Office to prepare judgments for $10,114,700 in civil penalties, $5450 in attorneys' fees and $1,000,000 under the 12/5/24 CO. Once those judgments were prepared the Court signed off on them on July 22, 2025 and they were uploaded on NYSCEF that same day.

Relevant to Petitioner's Rule 130 sanctions motion now before the Court, and referenced by Respondents in their attorney's affirmation in opposition to this motion, is the fact that three days prior to the uploading of the aforementioned judgments, on July 18, 2025 - not considered by the Court because they were neither filed timely nor even brought to the Court's attention at the time - Respondents' counsel had filed two "Affirmations in Opposition to Proposed Judgments" [NYSCEF Doc # 98], one signed by Respondents' attorney Jason Fuhrman, Esq. on July 9, 2025 and one signed by Respondent Sean Campbell on July 16, 2025, along with two supporting documents labelled Exhibits A and B. Exhibit A [NYSCEF Doc # 99] is a copy of the first page of the 68-page VSR generated on July 25, 2024 on which the Court's 8/5/24 OTC was based, showing 548 open violations at that time: 117 Class A; 281 Class B; 150 Class C. Exhibit B [NYSCEF Doc # 100] consists of copies of three checks, all listing Respondent Fordham Fulton Realty Corp as the remitter and Petitioner DHPD as the payee, and all referencing index numbers for two court cases between the parties - this one, LT-316487-

24/BX, and LT-315261-24/BX[4] - as follows: (1) Dated 03/01/2025 for $66,000; (2) Dated 03/31/2025 for $33,000; and (3) Dated 06/03/2025 for $68,000.

Regarding the judgment for civil penalties, Respondents' counsel argued that "some, albeit not all, the violations were correct[ed]", Fuhrman Affirm dated July 9 2025 at ¶ 7, and Petitioner's "proposed Civil Penalties are grossly inflated and not supported by any legitimate calculations. Nowhere are the equations shown to support the calculations therein,", id. at ¶ 8. Respondents' counsel (incorrectly) referred to the first page of the 7/25/24 VSR (Exhibit A) as "the basis of the Consent Order", id. and calculated "penalties if no violations had been corrected", id., adding up to $4,336,365, as follows:

- 117 Class A Violations, $10/day/violation; open for the 83 days of 3/5/25 through 5/27/25 ($97,110)
- 281 Class B Violations, $10 per violation plus $25/day/violation; open for the 143 days of 1/5/25 through 5/27/25 ($1,006,755)
- 150 Class C Violations, $125 per violation plus $50/day/violation; open for the 172 days of 12/6/24 through 5/27/25 ($3,232,500)

Regarding the $1,000,000 judgment, Respondent Campbell asserted that Petitioner was not entitled to this judgment because Respondents paid and Petitioner accepted the $100,000 due under the 12/5/24 CO, "albeit admittedly untimely", Campbell Affirm at ¶ 4; Fuhrman Affirm at ¶ 4, referring to the copies of the three checks annexed as Exhibit B [NYSCEF Doc # 100]; no information or explanation was provided about the other case, LT-315261-24/BX[5], referenced in those checks.

Although the 5/27/25 D/O had specifically directed Petitioner to submit a proposed judgment for attorneys' fees, Respondents' attorney also argued that Petitioner was not entitled to the judgment for attorneys' fees because "The motion for contempt has already been decided and Petitioner was not given an award of legal fees (to be determined or otherwise) in that decision." Fuhrman Affirm at ¶ 3.

[4] The NYSCEF e-file reflects that DHPD brought LT-315261-24/BX, like this one, to enforce the MDL and HMC. That case addresses conditions in a different building owned by Respondents at 530 East 169th Street in the Bronx and was settled by a Consent Order dated November 21, 2024 which mirrors the 12/5/24 CO in this case and, similarly, settles Petitioner's claims for civil penalties for $100,000, to be paid according to the same schedule as was agreed to in is case's 12/5/24 CO, with a consent judgment for $1,000,000 to be entered upon default.

[5] *See* fn 4, *supra*.

Both Respondent Campbell and his attorney in their untimely submitted affirmations asked that "Petitioner's motion for a judgment be deferred until after a factual hearing is held on the issue of Civil Penalties".

On August 11, 2025, Respondents' counsel filed a Notice of Appeal from the Order and Judgments entered on July 22, 2025 and a motion for a stay pending appeal. On August 15 Petitioner's counsel filed a cross-motion for an undertaking. On August 18 Respondents' counsel filed a motion under CPLR RR 5015(a)(1) and (a)(3) to vacate the judgments. On August 20 Respondents' counsel filed an order to show cause (OSC) seeking a stay pending appeal with a temporary restraining order (TRO). On August 28 Petitioner's counsel filed two OSCs, one to vacate the TRO and accelerate the return dates on the pending motions and one for additional contempt remedies. On August 29[6] Petitioner's counsel filed a motion for sanctions. The Court decided all these motions - except for Petitioner's motion for sanctions, now before the Court – in its Decisions/Orders of September 12 and November 14, 2025 which, essentially, denied all of Respondents' motions and granted Petitioner's. In an effort to encourage settlement of the sanctions motion, the Court in its November 14, 2025 Decision/Order restored that motion to the calendar for a conference on December 2, 2025. No settlement was reached on December 2, 2025, and the sanctions motion was marked submitted on that date.

It is the papers Respondents submitted in support of their CPLR R 5015 motion that underlie Petitioner's sanctions motion: Affirmations dated August 18, 2025 of Respondent Sean Campbell and Respondents' attorney Jason Fuhrman [NYSCEF Doc ## 137 and 138] and five exhibits, labelled Exhibits 1A through 1E [NYSCEF Doc ## 139-143], each consisting of numerous pages of Respondent Campbell's certifications of correction of violations, which this Court in its 9/12/25 D/O described as a "non-chronological, haphazard collection of certifications".

As to why the $1,000,000 judgment entered by the Court pursuant to the default provision of the 12/5/24 CO should be vacated, Respondents' attorney argued that, while the payments admittedly were untimely, "Respondents have previously submitted evidence that said payments were in fact made", citing NYSCEF Document # 100. Fuhrman Affirm at ¶ 5.

As to why the civil penalties judgment should be vacated under CPLR R 5015(a)(3), Respondent Campbell asserted that, "The numbers submitted by DHPD were totally fraudulent;" Campbell Affirm at ¶ 7; he had filed certifications for correction online, pointing to

[6] Also on August 29, 2025 Respondents' counsel filed a subpoena request [NYSCEF Doc # 196] demanding that Petitioner produce various documents. That same day, Petitioner's counsel filed a letter asking the Court to reject the subpoena as the case was in a post-judgment posture, not currently scheduled for a hearing or trial. The Court declined to sign the subpoena and uploaded a copy of the rejected subpoena on September 4, 2025.

the accompanying Exhibits 1A, 1B, 1C, 1D and 1E which he described as "hundreds of pages covering hundreds of violations", Campbell Affirm at ¶ 8; and he never received any notification from DHPD that the violations were not corrected. Mr. Campbell further asserted that DHPD "submitted absolutely nothing in support of the motion regarding certifications of corrections having been filed, or claimed invalidation thereof", Campbell Affirm at ¶ 10; "this is DHPD being dishonest", Campbell Affirm at ¶ 10; and "DHPD has committed fraud upon this Court, as they knowingly withheld proof that the violations were previously corrected as a matter of law", Campbell Affirm at ¶ 11.

Respondents' counsel argued that Petitioner improperly based its calculations on the statutory presumption that violations had not been corrected, which does not apply given Respondent Campbell's certifications within the 70-day period under HMC § 27-2115(f)(3); "DHPD submitted absolutely nothing in support of the motion regarding certifications of corrections having been filed, or claimed invalidation thereof," Fuhrman Affirm at ¶ 11; "DHPD has committed fraud so as to invalidate the judgments entered herein, as they knowingly withheld proof that the violations that are the subject of the within proceeding were previously corrected as a matter of law", Fuhrman Affirm at ¶ 12; "Due to the fraud committed by DHPD, they also obtained judgments for fees to which they would not be entitled", Fuhrman Affirm at ¶ 13; "Respondents submitted sworn statements that repairs at issue herein were corrected, and demanded a hearing to determine a correct amount of civil penalties, which was never held", Fuhrman Affirm at ¶ 14; Mr. Fuhrman's previously filed opposition to the judgments [NYSCEF Doc ## 98 and 99] "also demonstrated that DHPD's proposed judgment for civil penalties was deliberately calculated incorrectly to inflate the judgment amounts", Fuhrman Affirm at ¶ 15; "the judgments herein must be vacated as they were obtained through frauds perpetrated by Petitioner", Fuhrman Affirm at ¶ 16; "Clearly DHPD omitted material information that would have been relevant and damaging under their claims made in the motion", Fuhrman Affirm at ¶ 20; and "Such omission of information constitutes intrinsic fraud or false information to a court to vacate a judgment," Fuhrman Affirm at ¶ 21.[7]

In opposition to Respondents' 5015 motion [NYSCEF Doc ## 150-160], regarding the alleged fraud by DHPD Petitioner's attorney argued that Respondents' claims were "demonstrably false" as DHPD addressed certifications "at least four times" in its contempt motion "and indicated for which violations HPD received certifications on essentially every page of its 235 pages of violation reports". Gdanski Affirm at ¶ 4. Petitioner pointed out that Respondents did not make any claims regarding certified violations or completed repairs in their opposition to Petitioner's contempt motion, and Respondent Sean Campbell in his

[7] Respondents did not reiterate in their 5015 motion the baseless argument made in their untimely filed "Affirmations in Opposition to Proposed Judgments" that the judgment for attorneys' fees was not permitted by the 5/27/25 D/O.

affirmation in opposition to that motion dated May 7, 2025 instead said that they "have been making progress with the correction of the repairs and need additional time to complete the repairs." Further, Petitioner argued that Respondents' 5015 motion should be denied because the judgments were not entered on default; to the extent Respondents' motion instead seeks renewal, they did not show "a reasonable justification for failing to make an argument or submit evidence earlier, nor show that the alleged new evidence would change the result".

Petitioner included as Exhibit 1 [NYSCEF Doc # 151] to its opposition a copy of a letter dated August 19, 2025 from its attorney to Respondents' counsel demanding that they withdraw their 5015 motion "because it makes material factual statements that are false, is without merit in law, and is part of a long pattern of conduct[] intended to delay disposition of this case". In that letter, Petitioner's counsel cited and quoted 22 NYCRR § 130-1.1(c)(3), stating, "Please take notice that should you not withdraw your motion, this letter may serve as evidence that 'lack of legal or factual basis was apparent, should have been apparent, [and] was brought to the attention of counsel or the party.'" Petitioner's letter pointed out that the "vast majority" of the 342 pages of alleged certifications "fall into one of two buckets of violations that were not included in the judgment", with "Category One" comprised of violations that were issued after October 31, 2024 and "Category Two" comprised of violations that were not open at the time the proposed judgments were submitted. Petitioner described two other categories of certifications which provide "further reasons the frivolity of your conduct either is or should have been readily apparent to you", with "Category Three" being Respondents' inclusion of certifications for heat and hot water violations, which specifically were not included in the judgment, and "Category Four" being Respondents' inclusion of certifications for violations issued after Petitioner submitted its proposed judgment.

Petitioner's letter further stated, "To the extent violations remained open and were included in the judgment, you falsely assert we did not address the alleged certifications when our motion not only did in many places but submitted unrebutted evidence showing the conditions still existed." Petitioner quoted the Fuhrman affirmation's statement that "DHPD submitted absolutely nothing in support of the motion regarding certifications of corrections having been filed, or claimed invalidation thereof"; stated, "This is not a legal argument; it is a false statement of material fact"; pointed to specific places in Petitioner's affirmation in support of its contempt motion that mentioned certifications, including the VSRs, which "indicate whether an owner has certified"; and "The certifications for violations that were/are still open were found to be false", pointing to its Exhibit 8 that was "devoted to false certifications". In conclusion, Petitioner advises Respondents that if they fail to withdraw their motion, Petitioner will seek sanctions against them under Rule 130 as, "you are leaving in place a motion record on which you are falsely citing 342 disorganized pages of certifications, the seeming vast majority of which involve violations not included in the judgment, to support a false claim that HPD engaged in fraud by including those violations in the judgment, which we did not do; and as to any violations that did remain open, claiming that we did not address the

issue of certifications, when the docket demonstrates we did, and presented unrebutted evidence as to those conditions not being corrected."

The court now must determine whether to grant Petitioner's motion for sanctions and costs under Rule 130 due to alleged frivolous conduct by Respondents, their counsel Novick, Edelstein, & Pomerantz, P.C., ("Novick"), Jason Fuhrman, Esq., ("Fuhrman"), and I. Scott Edelstein, Esq., ("Edelstein").

In support of its motion, Petitioner argues in its attorney's affirmation [NYSCEF Doc # 201] that Respondents and their counsel should be sanctioned because they have made material factual statements that are false; made arguments that are without merit in law and without a good faith basis for the extension, modification or reversal of existing law; and engaged in conduct designed primarily to delay the resolution of this litigation, and harass and maliciously injure DHPD and its attorneys. As to false material factual statements, Petitioner asserts that Respondents "falsely accused HPD of not mentioning certifications in its motion for contempt when HPD did so at least four times in its affirmation and then on essentially every single page of 245 pages of its attached exhibits." Gdanski Affirm at ¶ 4. As to meritless legal arguments, Petitioner asserts that Respondents' allegations that DHPD "deliberately" "inflated" the amount due for civil penalties were based upon "their misusing a version of the statute that changed nearly two years ago," and disregarded the fact that both the 12/5/24 CO and the judgment Respondents claim was obtained through fraud "explain precisely that the calculations were based upon the amended statute." Gdanski Affirm at ¶ 5. As to delays without good cause and harassment of and malicious injury to Petitioner, Petitioner points to the "false accusations of fraud and misconduct", the filing of three "repetitive motions between August 11, 2025 and August 25, 2025" and the filing of a proposed subpoena at a time when "there is no trial scheduled and no leave for discovery granted", all of which operate to delay the resolution of the merits of the case, "as there are still 533 open code violations at the building." Gdanski Affirm at ¶ 6. Petitioner includes a copy of its Rule 130 warning letter dated August 19, 2025 as an exhibit [NYSCEF Doc # 209].

As a remedy, under Rule 130 Petitioner asks the Court to order Respondents and their attorneys Novick, Fuhrman and Edelstein to pay $10,000 each to the Lawyer's Fund for Client Protection and to enter a judgment against them jointly and severally in favor of DHPD for attorneys' fees for the costs of (1) opposing Respondents' CPLR R 5015 motion; (2) opposing Respondents' OSC with a TRO; (3) moving to vacate Respondents' OSC with a TRO; (4) opposing Respondents' motion for a stay of enforcement pending appeal; and (5) bringing this motion for sanctions.

In opposition [NYSCEF Doc # 222], Respondents' attorney acknowledges the failure to comply with the Court's June 2, 2025 order to submit any counterproposals to Petitioner's proposed judgments by June 20, 2025; points out that "the law office failure to timely file said

papers" was explained in prior affirmations, Fuhrman Affirm at ¶ 7; and highlights his July 9, 2025 affirmation in which he showed "why HPD's calculations of civil penalties were wrong", Fuhrman Affirm at ¶ 8. Respondents' attorney argues that there has been no frivolous conduct by his office; Respondents are entitled to litigate issues that are disagreed upon; missing a deadline is not sanctionable conduct; disputing Petitioner's calculations of civil penalties is not frivolous; Respondents' counsel "specifically itemized every calculation of civil penalties to the maximum, worst case scenario to my client while disputing that it should be the maximum", Fuhrman Affirm at ¶ 11; the judgments were entered on default, given that they were entered without consideration of Respondents' late submission; CPLR R 5015 permits vacatur of default judgments where there is an excusable default and meritorious defense, both of which Respondents demonstrated; "The Court never considered Petitioner's non-compliance with HMC 27-2115(f)(3) as a basis to dismiss violations and therefor render the civil penalties judgment incorrect", Fuhrman Affirm at ¶ 15; parties are free to seek stays of enforcement pending appeal; it was only because of the prolonged adjournment of Respondents' original motion for a stay that Respondents then filed a subsequent OSC with a TRO request for the same relief; and the fact that "the Court ultimately denied the motions for the stay is of no import", Fuhrman Affirm at ¶ 17, as they were not denied for being frivolous.

On reply [NYSCEF Doc # 223], Petitioner's attorney points out that Respondents' opposition does not address "the gravamen of HPD's motion" set forth in thirteen pages of his original supporting affirmation: that Respondents and their counsel made false, material factual statements, "as part of making incendiary accusations repeated no fewer than eleven times that HPD and/or its attorneys 'committed fraud' or engaged in 'dishonesty'". Gdanski Affirm at ¶ 3; *and see* ¶¶ 13-19. Respondents' opposition instead focusses on defending their "repeated late filing of papers and repetitive motions". Gdanski Affirm at ¶ 12. Petitioner argues that Respondents' failure to address Petitioner's arguments itself is a reason to impose sanctions and further warrants a finding that Respondents have conceded those points.

Petitioner's reply also notes that Petitioner is not seeking sanctions for Respondents' failure to timely submit a proposed counter-judgment; Petitioner is not seeking sanctions because "Mr. Fuhrman's math was wrong", Gdanski Affirm at ¶ 25; Petitioner is not seeking sanctions because Respondents filed motions for a stay pending appeal and to vacate judgments under CPLR R 5015; Petitioner did not argue that Respondents had no right to submit a timely proposed counter-judgment; Respondents' counsel did not explain why he cited an older version of HMC § 27-2115 and did not say that he misunderstood or was not aware of the heightened fines under the 2023 amendments to that statute; and Respondents' counsel did not address why they filed a proposed subpoena "demanding voluminous records from HPD even though this case was not set for a trial date", Gdanski Affirm at ¶ 36.

Finally, Petitioner points out that Respondents' opposition to the sanctions motions was filed late – the deadline was September 19, 2025 and their papers were filed on September 26,

2025 – and argues that they should be rejected and the Court should grant their sanctions motion on default.

In conclusion, Petitioner's attorney highlights the dilemma posed by Respondents' alleged sanctionable conduct: On the one hand Petitioner does not "want to take the focus of the case away from the hundreds of tenants at the building still suffering with unsafe conditions," Gdanski Affirm at ¶ 41; however, "litigants and lawyers have a right to expect that when they are litigating issues that their employment, retainer, or other professional duty obligates them to litigate, they will be treated with respect and decency," citing to *Santaliz v OR FM Assocs* (75 Misc3d 1201[A], 165 NYS3d 833 [Civ Ct Kings Co 2022]), in which Housing Court Judge Stoller ordered a Rule 130 sanction of $2500 to be paid by respondent-landlord's counsel, whose "statements to his adversaries, including his repeated accusations that Petitioner committed perjury, that Petitioner and Petitioner's counsel were liars, and that HPD was guilty of some kind of misconduct, were baseless and meritless attacks, and therefore sanctionable." Gdanski Affirm at ¶¶ 42-32.

DISCUSSION

Under Rule 130-1.1 (a) and (b), a court may award costs and impose sanctions in a civil action or proceeding against either an attorney or a party to the litigation, or both, who engages in frivolous conduct, defined in subsection (c) of that Rule to include conduct which "is completely without merit in law and cannot be supported by a reasonable argument for an extension, modification or reversal of existing law"; or "is undertaken primarily to delay or prolong the resolution of the litigation, or to harass or maliciously injure another"; or "asserts material factual statements that are false". Conduct which violates any of the three subsections is grounds for the imposition of sanctions, and a harsher penalty is warranted where counsel violates more than one. *DeRosa v Chase Manhattan Mortg Corp* (15 AD3d 249, 250, 793 NYS2d 1, 2 [1st Dep't 2005]).

The relief may include ***both*** costs to reimburse for actual expenses including attorney's fees ***and*** sanctions against the offending party and/or its attorney up to $10,000 for any single occurrence of frivolous conduct. 22 NYCRR §§ 130-1.1(a); 130-1.2. The court may award such costs and sanctions after providing "a reasonable opportunity to be heard", and "The form of the hearing shall depend upon the nature of the conduct and the circumstances of the case." 22 NYCRR § 130-1.1(d). A reasonable opportunity to be heard is provided where sanctions are sought by motion on notice of a party. *Santaliz v OR FM Assoc* (83 Misc3d 129[A], 212 NYS3d 508 [App Term 2nd Dep't 2024])(affirming lower court's award of sanctions based on frivolous conduct as to four grounds that were raised in a party's cross-motion for sanctions but not as to one ground that the court raised *sua sponte*).

The filing of a motion that lacks legal merit is not necessarily conduct "so egregious as to constitute frivolous conduct within the meaning of 22 NYCRR § 130-1.1". *Parametric Capital Mgt, LLC v Lacher* (26 AD3d 175, 807 NYS2d 874 [1st Dep't 2006]), *quoted in Nugent v City of New York* (189 AD3d 631, 134 NYS3d 705 [1st Dep't 2020]). However, as noted by the Appellate Division, First Department, "sanctions and costs have been imposed for insulting behavior to opposing counsel, baseless ad hominem attacks against the court and opposing party, and mischaracterization of the record". *Matter of Kover* (134 AD3d 64, 74, 19 NYS3d 228, 236 [1st Dep't 2015]), *citing Nachbaur v American Tr Ins Co* (300 AD2d 74, 75, 752 NYS2d 605 [1st Dep't 2002], *lv dismissed* 99 NY2d 576, 785 NE2d 730, 755 NYS2d 709 [2003], *cert denied* 538 US 987, 123 S Ct 1801, 155 L Ed 2d 682 [2003]). In *Matter of Kover*, the Appellate Division upheld the lower court's finding that the filing of motions based on material, false statements constituted frivolous conduct within the meaning of 22 NYCRR § 130-1.1 (c)(3) warranting the imposition of costs, including attorneys' fees, and a monetary sanction.

Here, this Court finds that Respondents' filing of a motion to vacate the judgments due to alleged fraud and misconduct by DHPD and its attorneys, and failure to withdraw that motion after Petitioner demanded such withdrawal and the Court conducted a lengthy settlement conference, constitutes frivolous conduct under 22 NYCRR § 130-1.1(c)(3) that warrants the imposition of costs, including attorneys' fees, and a monetary sanction. The lack of a legal and factual basis for Respondents' motion to vacate the judgments under CPLR R 5015(a)(3) for alleged fraud by DHPD clearly "was apparent or should have been apparent", *Matter of Kover, supra* (134 AD3d at 74, 19 NYS3d 228, 236 [1st Dept 2015]), for several reasons.

First, the day after Respondents' counsel filed their motion, Petitioner's counsel sent them a detailed letter demanding that they withdraw it "because it makes material factual statements that are false, is without merit in law, and is part of a long pattern of conduct[] intended to delay disposition of this case." This letter, if nothing else, presented Respondents with sufficient information for them to seriously consider whether there was a sufficient factual and legal basis to proceed with their motion under CPLR R 5015(a)(3).

Moreover, prior to that letter, the baselessness of Respondents' arguments is evident from the court file as described above. As to the judgment for $1,000,000, in the 12/4/25 CO between the parties Respondents themselves consented to this judgment as a penalty in the event they did not timely pay the lower settlement amount of $100,000. Respondents acknowledge that they did not make that payment in a timely manner. Respondents did not seek any extension of their payment schedule by motion to this Court. Moreover, Respondents' copies of checks offered to show their alleged eventual full payment not only prove that their payments were all made late but also show that payment was ***not*** made in full, as notations on the checks indicate they were earmarked towards both the $100,000 due in this case as well as another $100,000 similarly due in another case between the same parties, LT-

315261-24/BX (*see* fn 4, *supra*), add up only to $167,000 rather than $200,000, and Respondents' provided no explanation for these discrepancies. Respondents' counsel's statement that "said payments were in fact made" is false. There was no fraud involved in the entry of that judgment in favor of DHPD, and there was no legal or factual basis for Respondents to claim any such fraud.

Regarding the judgments entered based on this Court's Decision/Order of May 27, 2025 granting Petitioner's motion and, *inter alia*, ordering Petitioner to submit a proposed judgment for civil penalties and attorneys' fees, by Decision/Order uploaded to NYSCEF on June 2, 2025 - the same date that Petitioner uploaded its proposed judgments for civil penalties and attorneys' fees – the Court *sua sponte* gave Respondents until June 20, 2025 to file a proposed counter-judgment. Respondents did not file a proposed counter-judgment by the deadline, nor file a request for an extension or any other relief. Accordingly, the Court reviewed and approved the proposed judgments filed by Petitioner's counsel and turned them over to the Clerk's Office for processing.

Petitioner did not "submit[] absolutely nothing in support of the [civil penalties/ contempt] motion regarding certifications of corrections having been filed", as alleged in Respondents' counsel's affirmation in support of their CPLR R 5015 motion, and this allegation by Respondents' counsel is a material factual misstatement that is false. Petitioner did address Respondents' alleged certifications of correction of violations in numerous ways, including, as one example, Petitioner's counsel's statement in paragraph 34 of his supporting affirmation dated April 8, 2025 [NYSCEF Doc # 53] that, "Since the beginning of 2022, at last 153 violations in this building have been given a 'false cert' status'", indicating "that an HPD inspector found that the condition still existed even after Respondents certified that they were corrected. At least 10 still open violations covered by the OTC or CO because they were placed on or before October 31, 2024 have a false cert marking." As another example, in paragraph 36 of that same supporting affirmation Petitioner's attorney stated, "Beyond that, Respondents have failed to certify as corrected, an additional 274 violations covered by the OTC or CO. Combined, the 274 failures to certify, 47 not complied markings, and 10 false cert markings account for all 331 of the still open violations covered by the OTC or CO." Petitioner also filed a document as Exhibit 8 to that motion labeled "False certification abstract of April 7, 2025 VSR including closed violations" [NYSCEF Doc # 61].[8]

[8] It also bears noting that as part of its causes of action for tenant harassment Petitioner alleged that Respondents had a history of "repeatedly falsely certifying violations as corrected," Petition at ¶¶ 54-57; while Respondents never did file an Answer to the Petition, in paragraph 14 of the parties' 12/5/24 CO Petitioner withdrew its claims for tenant harassment "in consideration of Respondents' agreement to and compliance with the terms herein."

In opposition to that motion, Respondents themselves raised no issue of alleged unacknowledged, valid certifications and made no showing that they were entitled to the "deemed corrected" presumption under HMC § 27-2115(f)(3). In their motion to vacate the judgment for alleged fraud Respondents provided no explanation for why they failed to raise the issue of alleged unacknowledged valid certifications earlier. They also do not address the fact that their building is on DHPD's 2025 "Certification Watchlist". *See* fn 1, *supra*.

Nor were the judgments in any other manner "obtained by fraud by Petitioner's counsel", as alleged in Respondents' counsel's affirmation in support of their CPLR R 5015 motion. Petitioner included detailed calculations in its proposed judgments, with the civil penalties bifurcated – just as they were in the Petition, the original Order to Correct of August 5, 2024 and the parties' Consent Order of December 5, 2024 – to reflect the lower penalty levels in effect prior to December 8, 2023 and the higher penalty levels applicable on and after that date under HMC § 27-2115(a) as amended by Local Law 71 of 2023. Respondents' counsel's statement that "DHPD's proposed judgment for civil penalties was deliberately calculated incorrectly to inflate the judgment amounts", Fuhrman Affirm in Opposition to Sanctions Motion, dated September 26, 2025, at ¶ 15 [NYSCEF Doc # 137], is false and utterly unsupported. Respondents' counsel did not object to any specific details in Petitioner's calculations and, if anything, it is Respondents' counsel's own calculations, included in paragraph 8 of his untimely "Affirmation in Opposition to Proposed Judgments" filed on July 18, 2025 [NYSCEF Doc # 98] and referenced in his opposition to Petitioner's sanctions motion, that were "deliberately calculated incorrectly" to arrive at a dramatically deflated amount. Respondents' calculations do not reflect the substantially higher penalty levels in effect as of December 8, 2023 under HMC § 27-2115(a).[9] Not only did Respondents' counsel fail to apply those higher penalty rates but he also certainly did not "specifically itemize[] every calculation of civil penalties to the maximum, worst case scenario to my client", Fuhrman Affirm in Opp to

[9] That the penalties increased as of December 8, 2023 should be well-known to Respondents and their counsel. Aside from any knowledge they may or should have outside the context of this proceeding, the differential penalties applied prior to December 8, 2023 and on/after that date have been referenced in all key documents filed since the case started: the Petition itself (at ¶ 28); Judge Arrindell's 8/5/24 OTC; and the parties' 12/5/24 CO. The increased penalties under the 2023 amendments to HMC § 27-2115(a) are significant. Whereas the penalties prior to December 8, 2023 for Class A ("non-hazardous") violations ranged from a minimum of $10 to a maximum of $50 with no additional daily penalty, they increased to a range of $50 to $150 ***plus*** an additional penalty of $25/day. For Class B ("hazardous") violations, while the older penalties ranged from $25 to $100 plus an additional $10/day, they increased to a range of $75 to $500 plus an additional $25 to $125 per day. For Class C ("immediately hazardous") violations in buildings with more than five units, while the older penalties ranged from $50 to $150 plus an additional $125/day, they increased to a range of $150 to $1200 plus an additional daily penalty of $150 to $1200.

Sanctions Motion at ¶ 11. Rather, Respondents' counsel based his calculations on the minimum dollar amounts permitted by the pre-December 8, 2023 statutory penalty ranges. A comparison of how each party calculated proposed civil penalties for Class C ("immediately hazardous") violations illustrates this point:

- Respondents' counsel calculates penalties totaling $3,232,500 for 150 Class C violations listed on the 7/25/24 VSR, exclusively relying on a penalty schedule of "$125.00/day + $50/violation", the lowest rates in effect prior to December 8, 2023, for the 172-day period of December 6, 2024 through May 27, 2025.[10]
- Petitioner's counsel calculates penalties totaling $8,752,200 for 64 open Class C violations as of the 5/27/25 DO granting the motion for contempt and civil penalties, breaks them down into three categories and distinguishes those violations subject to the lower, pre-December 8, 2023 penalty rates from those subject to the higher rates:
    - 18 Class C violations covered by the 8/5/24 OTC that were issued on or after 12/8/23: at a rate of $1200 per violation plus $1200 per day per violation, open for 294 days after the OTC's 8/6/24 deadline for correction: $6,372,000
    - 42 Class C violations covered by the 8/5/24 OTC that were issued before 12/8/23: at a rate of $150 per violation plus $125 per day per violation, open for 294 days after the OTC's 8/6/24 deadline for correction: $1,549,800
    - 4 Class C violations covered by the 12/5/24 CO, not already covered by the 8/5/24 OTC, at a rate of $1200 per violation plus $1200 per day per violation, open for 172 days after the CO's 12/6/24 deadline for correction: $830,400

It is no wonder that Respondents' calculations are so much lower than Petitioner's - even though Respondents mistakenly used the higher total number of Class C violations that were open on July 25, 2024, as opposed to those that were open on May 27, 2025, and included certain types of violations that Petitioner excluded[11] - given that they erroneously applied only the lowest penalty rate available under the pre-amendment schedule.

In addition to their meritless legal arguments and false material statements of fact described above, it is significant that Respondents' in their opposition papers completely failed to address – much less show contrition for - what Petitioner's motion papers clearly establish to have been the most compelling impetus for their motion: "as part of making incendiary

[10] Respondents' counsel makes numerous other mistakes in his calculations by (1) relying on a VSR dated July 25, 2024 [NYSCEF Doc # 99] which lists 150 open Class C violations, rather than the number of open violations as of the 5/27/25 DO; (2) referring to that 7/25/24 VSR as "the basis of the Consent Order", when it was not the basis of the 12/5/24 CO but the basis of Judge Arrindell's original 8/5/24 OTC; and (3) including heat, hot water and other categories of violations that DHPD did not include in their proposed judgment.

[11] *See* fn 10, *supra*.

accusations, repeated no fewer than eleven times that HPD and/or its attorneys 'committed fraud' or engaged in 'dishonesty' … Respondents and their counsel made material factual statements that are false." Gdanski Affirm in Reply at ¶ 3. Sanctionable behavior includes "baseless ad hominem attacks directed at an adversary" and "flimsy grounds upon which Respondent's counsel accuses his adversaries of lying". *Santaliz v OR FM Assocs* (75 Misc3d 1201[A], 165 NYS3d 833 [Civ Ct Kings Co 2022], *aff'd in part, mod in part*, 83 Misc3d 129[A], 212 NYS3d 508 [App Term 1st Dep't 2024]). "Contrition is seen as a mitigating factor in attorney disciplinary proceedings and is strongly considered by courts who have imposed sanctions pursuant to 22 NYCRR § 130-1.1." *1334 B LLC v Pritchard* (86 Misc3d 1101, 1125, 226 NYS3d 498, 515 [Civ Ct Kings Co 2024]).

Finally, before marking this motion submitted on December 2, 2025, the Court held a lengthy settlement conference with counsel to give Respondents a further opportunity to consider withdrawing or otherwise settling it.

The amount of a sanctions award should be proportionate to the amount sought in the lawsuit, the culpability of the attorney's conduct, and prejudice to an adversary. *276-W71 LLC v G.S.* (80 Misc3d 216, 222, 190 NYS3d 890, 894 [Civ Ct NY Co 2023]). Here, a sanction of $1500 against Respondent Sean Campbell; a sanction of $1500 against Respondents' counsel; and an award of reasonable attorneys' fees to Petitioner and against Respondents and their attorneys Novick Edelstein Pomerantz, P.C., jointly and severally, are appropriate based on the frivolous conduct of Respondents and their attorneys in filing a legally and factually baseless motion to vacate judgments supported by affirmations of Respondent replete with false claims of fraud perpetrated by Petitioner and its attorneys.

CONCLUSION

Based on the foregoing, it is hereby

(1) ORDERED that Respondents' motion to vacate judgments under CPLR R 5015(a)(3) for alleged fraud perpetrated by Petitioner and its attorneys constitutes frivolous conduct as defined in 22 NYCRR § 130-1.1(c) as that motion was based on false material factual statements, meritless legal arguments, and cannot be supported by a reasonable argument for an extension, modification or reversal of existing law; AND it is further
(2) ORDERED that separate sanctions of $1500 each shall be imposed against both Respondent Sean Campbell and Respondents' counsel Novick Edelstein Pomerantz, P.C.; AND it is further
(3) ORDERED that, within twenty days of service of a copy of this order together with notice of entry by any party to all other parties, Respondent Sean Campbell shall deposit $1500 with the Clerk of the Court for transmittal to the New York State Commissioner of

Taxation and Finance and, within ten days of such payment, file proof of such payment; AND it is further

(4) ORDERED that, within twenty days of service of a copy of this order together with notice of entry by any party to all other parties, the law firm of Novick Edelstein Pomerantz, P.C. shall pay $1500 to the Lawyer's Fund for Client Protection at 119 Washington Avenue, Albany, New York 12210 and, within ten days of such payment, file proof of such payment; AND it is further

(5) ORDERED that Petitioner is awarded the costs and reasonable attorneys' fees associated with making this sanctions motion and the costs and reasonable attorneys' fees associated with opposing Respondents' motion pursuant to CPLR R 5015(a)(3) based on alleged fraud, to be paid by Respondents and/or their attorneys; AND it is further

(6) ORDERED that Petitioner shall file, with email notice to Respondents' counsel and the Court[12], an affirmation(s) detailing the costs and attorneys' fees associated with making this motion and the costs and attorneys' fees associated with opposing Respondents' motion pursuant to CPLR R 5015(a)(3); AND it is further

(7) ORDERED that within three weeks after receiving email notice under item (6) above, Respondents shall either pay such fees to Petitioner or file, with email notice to Petitioner's counsel and the Court, any opposition contesting such amounts, with specificity; AND it is further

(8) ORDERED that within three weeks after receiving email notice under item (7) above, Petitioner shall prepare and file, with email notice to Respondents' counsel and the Court, any reply they may have to any opposition Respondents may have filed under item (7) above.

This constitutes the Decision and Order of this Court, which is being uploaded to NYSCEF.

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Diane E. Lutwak, HCJ

Dated: Bronx, New York
January 14, 2026

APPROVED
DLUTWAK , 1/14/2026, 8:34:59 AM

[12] The Bronx Housing Court Part T email address is: BX-HOUSING-528B@nycourts.gov .