387 Park S. L.L.C. v Schulman
2026 NY Slip Op 30545(U)
February 11, 2026
Supreme Court, New York County
Docket Number: Index No. 650448/2019
Judge: Arlene P. Bluth

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: **HON. ARLENE P. BLUTH** **PART** **14**

Justice

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387 PARK SOUTH L.L.C.,

Plaintiff,

- v -

STEPHANIE SCHULMAN, SARID DRORY

Defendant.

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INDEX NO. 650448/2019

MOTION DATE 02/04/2026

MOTION SEQ. NO. 002

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 002) 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 92

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

Plaintiff's motion for summary judgment against defendants is granted as to liability only.

Background

Plaintiff, a landlord, brings this case to recover unpaid rent against two guarantors (defendants) in connection with a lease entered into with non-party Artisanal 2015, LLC ("Artisanal") in October 2015. The annual rent in the lease ranged from $1.3 million to just over $2 million. It contends that Artisanal stopped paying rent and that it sent a notice to cure on December 21, 2016 and notified Artisanal that the unpaid amount had to be cured by January 9, 2017. Plaintiff maintains that Artisanal filed an action and sought a *Yellowstone* injunction in 2017 and thereafter commenced bankruptcy proceedings in the SDNY. The lease was eventually terminated by the bankruptcy judge in December 2017 (NYSCEF Doc. No. 67).

Plaintiff acknowledges that it found another tenant (a CVS) to occupy the space starting on December 28, 2019 and calculates that defendants, as guarantors, owe over $8.8 million when factoring in the additional rent it is to receive from CVS as well as the security deposit.

In opposition, defendants offer a divergent view of this failed landlord-tenant relationship. They argue that the landlord, essentially, refused to help them build out a restaurant and then suddenly demanded rent due when it was the plaintiff who was responsible for the delays in opening the space. Defendants contend that the guaranty at issue is a good guy guaranty and that it terminated on the date that Artisanal left the premises. They stress that the agreement limits the guarantors' liability to obligations accruing through the vacate date and that there is no mention of any acceleration of rent.

Defendants argue that the lease terms were not supposed to start until plaintiff's work on the property was substantially complete and contend that an entrance door installed prior to this delivery never received a DOB approval. They argue that this prevented them from finalizing architectural plans and stalled the restaurant's build-out. Defendants claim that the vacate date was December 28, 2017—the date the bankruptcy judge terminated the lease. They insist that this should be the vacate date for purposes of the good guy guarantee.

Defendants also take issue with certain fees included in plaintiff's prima facie evidence, including $39,600 in late fees for delays that plaintiff allegedly caused by withholding approvals. They also point to a $235,000 TI allowance that plaintiff purportedly promised to reimburse Artisanal in relation to the build-out. Defendant Schulman, in addition to reiterating many of the points raised by defendants, also contends that she never signed the first amendment to the lease and that her apparent signature on this document is a forgery.

In reply, plaintiff emphasizes that defendants waived all defenses other than payment in full under the terms of the guaranty. With respect to the vacate date, plaintiff contends that the limitation on liability was conditioned on defendants giving the landlord a notice.

Discussion

The Court grants plaintiff's motion but only as to liability. A trial will be necessary to determine the extent of plaintiff's damages. There is no question that there is unpaid rent and a valid guaranty as to both defendants. The only question is how much is due.

Defendant Schulman's claim that her signature on the first amendment to the lease was a forgery is conclusory and without merit. Although she claims that "Indeed, I have evidence that another individual, working for a different principal, signed my name without authority or my knowledge—and in fact admitted to doing so in another matter" (NYSCEF Doc. No. 82, ¶ 38), that vague assertion was not accompanied by any other details. It is therefore not sufficient to raise an issue of fact concerning whether she signed the first amendment to the lease.

Moreover, as plaintiff pointed out, in the 2017 action commenced by Artisanal against plaintiff, Artisanal alleged that it signed the first amendment of lease containing Ms. Schulman's signature (which was for additional premises in the basement) (NYSCEF Doc. No. 85, ¶ 4). And, critically, that complaint was verified by Ms. Schulman on April 3, 2017 (*id*. at 11 of 12). So, to claim now, years and years later, that her signature was forged is baseless.

The Court must also address the effect of the bankruptcy judge's order on the guaranty. The guaranty required defendants to pay "The full, prompt, and complete payment of all rent and additional rent due under the Lease, without reference to any acceleration of rent, through and including the Vacate Date (hereinafter defined), together with the unamortized portion (from the Vacate Date to the original Expiration Date of the Lease) of the amortized (on a straight-line

basis from the Fixed Rent Commencement Date through the original Expiration Date) [various enumerated items]" (NYSCEF Doc. No. 63, at 1).

Vacate date is defined as "the date that Tenant, after giving Landlord at least 120 days' notice of its intention to vacate the Premises (provided that Tenant is not otherwise in default under the Lease), surrenders the Premises to Landlord broom clean and vacant, free of all subtenants and other occupants and otherwise in the condition required by the Lease, and delivers to Landlord a key to the Premises" (*id*. at 2).

Therefore, unlike some other good guy guarantees which require that the tenant be "paid up" upon vacatur, defendants were only obligated to pay amounts due through the vacate date. It is undisputed that there is no record of any 120-day notice provided to plaintiff. However, the Court's inquiry does not end there as a bankruptcy judge terminated this lease and ordered Artisanal to "surrender the Premises to the Landlord 72 hours after the entry of this Order" and held that the lease "is terminated by operation of law" (NYSCEF Doc. No. 67).

Therefore, defendants' liability under the guaranty shall be limited to the date they actually surrendered the premises; that date is not clear from the papers on this motion and must be made by a fact finder. Plaintiff observed in reply that various representations were made in other cases that the premises were vacated on January 4, 2018. It will be up to the parties to litigate before a fact finder about the precise vacate date- whether it is the date of the bankruptcy judge's order, January 4, 2018 or some other date. But, to be clear, the Court finds that plaintiff is not entitled to recover for the entire term of the lease against the guarantors where a bankruptcy judge terminated the lease by operation of law. In any event, given that plaintiff eventually rented out the space to a CVS in 2019, it must have recovered the premises prior the end date listed in the lease.

Defendants' other contentions that plaintiff's conduct somehow compels the Court to deny the instant motion fail. The guaranty stated that each defendant "waives all defenses other than payment in full" (NYSCEF Doc. No. 63 at 2). Therefore, defendants are constrained to raising only the defense that of payment in full (*Fortress Credit Corp. v Hudson Yards, LLC*, 78 AD3d 577, 577, 912 NYS2d 41 [1st Dept 2010]).

This Court interprets that to mean that at the upcoming trial, defendants can only challenge the amounts that plaintiff claims are due. For instance, defendants can certainly claim that certain charges were improper or that they did not get a credit they were entitled to receive. But they cannot avoid summary judgment as to liability now given that they waived all defenses except for full payment—what constitutes the full amount due will be resolved at a trial.

Finally, the Court emphasizes that 22 NYCRR 202.8-g no longer requires a party to file a statement of material facts and so that is not a basis to deny plaintiff's motion.

Accordingly, it is hereby

ORDERED that plaintiff's motion for summary judgment is granted only to the extent that it is entitled to summary judgment on liability and that there shall be a trial on damages to determine the exact amount due.

2/11/2026
DATE

ARLENE P. BLUTH, J.S.C.

CHECK ONE:		CASE DISPOSED			X	NON-FINAL DISPOSITION	
		GRANTED		DENIED	X	GRANTED IN PART	OTHER
APPLICATION:		SETTLE ORDER				SUBMIT ORDER	
CHECK IF APPROPRIATE:		INCLUDES TRANSFER/REASSIGN				FIDUCIARY APPOINTMENT	REFERENCE