

Maghrabi v Alsatel

2026 NY Slip Op 31212(U)

March 17, 2026

Civil Court of the City of New York, Queens County

Docket Number: Index No. L&T 310431/25

Judge: Clinton J. Guthrie

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This opinion is uncorrected and not selected for official publication.

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF QUEENS: HOUSING PART SPP

-----X
MAHA MAGHRABI,

Petitioner,

Index No. L&T 310431/25

-against-

DECISION/ORDER

ZAID ALSATEL,

Respondent.

-----X
Present:

Hon. CLINTON J. GUTHRIE
Judge, Housing Court

Recitation, as required by CPLR § 2219(a), of the papers considered in the review of petitioner’s motion for summary judgment pursuant to CPLR § 3212:

Papers	Numbered
Notice of Motion & All Documents Annexed.....	<u>1 (NYSCEF #24-34)</u>
Affirmation in Opposition & All Documents Annexed.....	<u>2 (NYSCEF #35)</u>
Reply Memorandum of Law & All Documents Annexed.....	<u>3 (NYSCEF #36-40)</u>

Upon the foregoing cited papers, the decision and order on petitioner’s motion is as follows.

PROCEDURAL HISTORY

This summary holdover proceeding based upon a 90-day notice of termination was commenced in July 2025. Counsel appeared for respondent in August 2025 and later made a motion to dismiss. By Decision/Order dated July 12, 2026, Judge Bryant F. Tovar denied the motion to dismiss and granted respondent leave to file an answer. An answer with counterclaims was filed on January 23, 2026.

Petitioner now moves for summary judgment. After the motion was fully briefed, this court heard argument on March 17, 2026.

DISCUSSION/CONCLUSION

On a motion for summary judgment, “the proponent . . . must make a prima facie showing of entitlement to judgment as a matter of law, tendering sufficient evidence to demonstrate the absence of any material issues of fact[.] . . . Once this showing has been made, however, the burden shifts to the party opposing the motion for summary judgment to produce evidentiary proof in admissible form sufficient to establish the existence of material issues of fact which require a trial of the action.” (*Alvarez v. Prospect Hosp.*, 68 N.Y.2d 320, 324 [1986] [internal citations omitted]). Petitioner asserts that she is the shareholder and proprietary lessee of the subject premises and that respondent is holding over without a legal basis. In support of the motion, petitioner annexes the pleadings, a purported lease with respondent, and a portion petitioner’s proprietary lease, along with petitioner’s affirmation. Respondent opposes petitioner’s motion in all respects via an affirmation from respondent and various exhibits.

In a summary eviction proceeding, the petitioner must make out all elements of its cause of action to be awarded relief (*see Matter of 200 Claremont Ave. Hous. Dev. Fund Corp. v Estate of Elsie Lewis*, 2025 NY Slip Op 07084, *1 [1st Dept 2025] [“[A]s a statutory construct, summary proceedings must strictly comply with the provisions of RPAPL article 7[.]”]; *1646 Union, LLC v Simpson*, 62 Misc 3d 142[A], 2019 NY Slip Op 50089[U] [App Term, 2d Dept, 2d, 11th & 13th Jud Dists 2019]). At the outset, the court notes that petitioner has not properly authenticated either the purported lease with respondent or the proprietary lease for the subject apartment (*see Young v Crescent Coffee, Inc.*, 222 AD3d 704, 705 [2d Dept 2023]; *Bou v Llamozza*, 173 AD3d 575 [1st Dept 2019]). Moreover, the copy of the proprietary lease includes only 2 out of the 33 total pages, which makes it of dubious evidentiary value.

Respondent also highlights the fact that the petition only describes respondent as “a natural person.” (*see* Petition, ¶ 2 [NYSCEF Doc. 1]). RPAPL § 741(2) requires that a petition “[s]tate the respondent’s interest in the premises and his relationship to petitioner with regard thereto.” A fundamental omission in a petition will preclude relief in favor of a petitioner (*Brookwood Coram I, LLC v. Oliva*, 47 Misc 3d 140[A], 2015 NY Slip Op 50607[U], *1 [App Term, 2d Dept, 9th & 10th Jud Dists 2015] [citing *Jeffco Mgt. Corp. v. Local Dev. Corp. of Crown Hgts.*, 22 Misc 3d 141[A], 2009 NY Slip Op 50455[U], *2 [App Term, 2d Dept, 2d, 11th & 13th Jud Dists 2009]). While the petition may be subject to amendment (*see Paikoff v Harris*, 185 Misc 2d 372 [App Term, 2d Dept, 2d & 11th Jud Dists 1999]), the allegation in the petition as to respondent’s interest in the premises and relationship to petitioner is not adequate for petitioner to be granted relief upon this record.

Thus, the court denies petitioner’s motion upon the failure to meet her prima facie burden. Moreover, even assuming arguendo that petitioner had met its burden, Judge Tovar previously held that there is an issue of fact in dispute as to whether Al Fayez is a necessary party in his January 12, 2026 Decision/Order. This determination is law of the case that this court will not overlook (*see Fishon v. Richmond Univ. Med. Ctr.*, 171 AD3d 873 [2d Dept 2019]). Petitioner’s motion is denied in its entirety as a result.

The court declines to consider sanctions upon respondent, as petitioner’s request was made for the first time in the reply papers and not in a motion made on notice (*see* CPLR § 2214; *Santaliz v OR FM Assoc.*, 83 Misc 3d 129[A], 2024 NY Slip Op 50794[U], *2 [App Term, 2d Dept, 2d, 11th & 13th Jud Dists 2024]).

This proceeding will be restored to the Part SPP calendar for all purposes, including trial transfer, on April 15, 2026 at 9:30 AM. This Decision/Order will be filed to NYSCEF.

THIS CONSTITUTES THE DECISION AND ORDER OF THE COURT.

APPROVED
CGUTHRIE , 3/17/2026, 5:26:39 PM

Dated: Queens, New York
March 17, 2026

HON. CLINTON J. GUTHRIE, J.H.C

CHECK ONE:

MOTION SEQ. #: 2

CHECK IF APPROPRIATE:

NOTES

<input type="checkbox"/>	CASE DISPOSED		<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION	
<input type="checkbox"/>	GRANTED	<input checked="" type="checkbox"/>	DENIED	<input type="checkbox"/>	GRANTED IN PART
<input type="checkbox"/>	SETTLE ORDER			<input type="checkbox"/>	SUBMIT ORDER
<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN			<input type="checkbox"/>	FIDUCIARY APPOINTMENT
				<input type="checkbox"/>	OTHER
				<input type="checkbox"/>	STAY CASE
				<input type="checkbox"/>	REFERENCE