

Alevy v JPMorgan Chase & Co.
2026 NY Slip Op 31581(U)
April 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.

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DECISION

AFTER TRIAL

INDEX No.: 155357/2022

MOT. SEQ. No.: 001

Present:

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

This is a special proceeding for turnover pursuant to CPLR 5225[b]. The procedural and factual history of the proceeding, as set forth in the court's Interim Decision After Trial dated January 13, 2026 (the "Interim Decision"), is hereby incorporated by reference.

The Interim Decision directed respondent JP Morgan Chase & Co. ("Chase") to conduct, on or before January 31, 2026, an examination and inventory of the contents of safe deposit boxes 2212 and 163 in the presence of notice-respondents Rifka Herz and Moshe Herz, both of whom were directed to appear at Chase to observe the examination and inventory. The Interim Decision further directed Chase to provide the court a separate inventory of each safe deposit box's contents for *in camera* review on or before February 4, 2026. Chase duly conducted the inventories of both safe deposit boxes on January 30, 2026, and provided the inventories to the court for *in camera*

review on February 4, 2026.

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 safe deposit boxes were therefore joint owners; and that, as a result, the court should direct the Sheriff to open the safe deposit boxes and turnover the contents. Notice-respondents, by contrast, contend that Rifka's name was added to the 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 and the court's *in camera* review of the inventory of safe deposit boxes 2212 and 163, the court makes the following findings of fact and conclusions of law.

Safe deposit box 2212 was opened on either November 21, 2017, or March 26, 2018, and box 163 was opened on March 26, 2018 (see NYSCEF Doc. Nos. 111-12, 144, 146). The two safe deposit boxes are each located at the Chase bank located at Broadway and 90th Street in Manhattan, and each was opened in the names of both Rifka and Moshe, who are siblings (see NYSCEF Doc. Nos. 111, 144). 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, which is consistent with the court's *in camera* review of the inventory of the two boxes' contents.

Under New York law, “the opening of a joint bank account creates a rebuttable presumption that each named tenant is possessed of the whole of the account so as to make the account vulnerable to levy of a money judgement by the judgement creditor of one of the joint tenants” (*Signature Bank v HSBC Bank USA, N.A.*, 67 AD3d 917, 918 [2nd Dept. 2009]; see Banking Law § 675[b]). That presumption “extends to safe deposit boxes held jointly” (*New York Cmty. Bank v. Bank of Am., N.A.*, 169 AD3d 35, 38 [1st Dept. 2019]). “The presumption created by Banking Law § 675 can be rebutted by providing direct proof that no joint tenancy was intended or substantial circumstantial proof that the joint account had been opened for convenience only” (*Signature Bank*, 67 AD3d at 918 [internal quotation marks omitted]; see *New York Cmty. Bank*, 169 AD3d at 38). However, “[a] judgment debtor’s mere conclusory assertions are patently insufficient to rebut her ownership of the funds in [joint] bank accounts for purposes of [a] turnover proceeding[]” (*Signature Bank*, 67 AD3d at 919).

As notice-respondents, Rifka and Moshe bear the burden of rebutting the statutory presumption of joint ownership arising from the fact that safe deposit boxes 2212 and 163 were each opened in both of their names. They fail to rebut that presumption here. At the hearing, Moshe testified that his grandmother, who passed away in 1999 or 2000, gave a total of \$120,000, divided equally into thirds, to him and his two younger siblings, Chava and Tzvi, to build homes. However, neither Chava nor Tzvi appeared at the hearing to testify or offered written testimony in the form of a sworn affirmation or affidavit to corroborate Moshe’s account. Moreover, Moshe conceded that there is no documentary evidence, such as a last will and testament of his grandmother, to support his conclusory assertion that the monies contained in the subject safe deposit

boxes are inheritance funds given to him and his younger siblings in which Rifka did not share and has no ownership interest. The court also notes the curious fact that Moshe claims that these monies only came into his possession in 2015 or 2016, approximately a decade-and-a-half after his grandmother's passing.

Moshe also testified that Rifka gave him her engagement ring and wedding band during her divorce proceedings approximately a decade ago as informal repayment for money he had loaned to her over the years and for his own use in the event he gets married, which testimony was confirmed by Rifka at the hearing. Here again, though, Moshe and Rifka fail to provide any other credible evidence to corroborate their conclusory testimony that these rings were given to Moshe and are no longer owned by Rifka. Furthermore, the court is unable, after conducting its *in camera* review, to discern whether the wedding band and/or engagement ring are even among the items kept in the subject safe deposit boxes. No jewelry is included in the inventory of box 2212. The inventory for box 163 does reflect several pieces of jewelry, including a pair of rings, but contains only a general description of these items, which are both described merely as "[s]ilver tone ring with clear stone[.]"

The court also notes that Rifka disclaimed any ownership interest in the contents of the subject Chase boxes, testifying at the hearing that she did not need the Chase safe deposit boxes because she maintained her own, separate safe deposit box at TD Bank. This blanket disclaimer, however, is undercut by the court's *in camera* review of the inventories produced by Chase, which reflect that the Chase boxes contain several documents that clearly do not belong to Moshe.

Finally, the court finds a number of items contained in the inventories of safe

deposit boxes 2212 and 163 lack any monetary value, as they are clearly familial in nature, of purely sentimental value, or are exclusively of a documentary purpose (e.g., birth certificates, death certificates, etc.), and thus shall not be turned over to the Sheriff or third party, to wit: any items of paper or letters, passports, birth certificates, death certificates, DVDs, videos, cassettes, etc.

Based on the foregoing, it is hereby

ORDERED that the amended petition is granted to the extent that Respondent-Garnishee JPMorgan Chase Bank, N.A., is directed to turn over/deliver to the Office of the Sheriff, New York County, the jewelry and cash contained in safe deposit boxes 2212 and 163 maintained at the Chase Bank located at Broadway and 90th Street, New York, New York, to satisfy or partially satisfy the outstanding judgment forthwith; and it is further

ORDERED that the freeze/liens on safe deposit boxes 2212 and 163 maintained at JP Morgan Chase Bank, located at Broadway and 90th Street, New York, New York, are hereby lifted forthwith; and it is further

ORDERED that the balance of the amended petition is denied.

This constitutes the Decision and Order of the court.

Dated: New York, New York
April 13, 2026

So Ordered:



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