

Congregation Machne Ger. v Berliner

2026 NY Slip Op 31737(U)

April 22, 2026

Supreme Court, Kings County

Docket Number: Index No. 510874-2022

Judge: Peter P. Sweeney

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS, PART 73

Index No.: 510874-2022

Motion Date: 2-17-26

Mot. Seq. No.: 4, 5

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CONGREGATION MACHNE GER. by members and
Directors DAVID OLEWSKI, YEHUDA COHEN, And
IZADORE DANZIGER,

Plaintiffs,

- against -

DECISION/ORDER

DOVID BERLINER a/k/a DAVID MENDEL BERLINER,
ISAAC BIRNHACK a/k/a YITZCHOK BIRNHACK, and
ABRAHAM M. ABRAMOVITS,

Defendants,

Attorney General of the State of New York,

Statutory Notice Defendant.

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The following papers, which are e-filed with NYCEF as items 204-222, were read on these motions:

In this action involving a dispute over control of a Religious Corporation, in Motion Sequence # 4, the Defendants, DOVID BERLINER a/k/a DAVID MENDEL BERLINER, ISAAC BIRNHACK a/k/a YITZCHOK BIRNHACK, and ABRAHAM M. ABRAMOVITS, move for a preliminary injunction (1) enjoining plaintiffs from communicating with Hamaspik of Kings County, Inc., or any of its officers, employees, agents, campers or families, in any manner calculated to suggest that Hamaspik's lease is invalid or that Hamaspik lacks the right to occupy or use the Camp; (2) enjoining plaintiffs from making any threats, demands, or representations to Hamaspik that it vacate the Camp, that it will face litigation, penalties, or loss of access if it continues to exercise its rights under the lease, or that the Camp will not be available to Hamaspik for the upcoming summer season; (3) enjoining plaintiffs from otherwise interfering, directly or indirectly, with the Congregation's lease and contractual relationship with Hamaspik, or with Hamaspik's preparation for and operation of its summer program at the Camp, (4) and granting such other relief as the Court deems just and proper.

In Motion Sequence # 5, the Plaintiffs, CONGREGATION MACHNE GER, by members and Directors DAVID OLEWSKI, YEHUDA COHEN, and IZADORE DANZIGER, move for an Order directing (A) that all rents received and to be received by Defendants from the purported Lease to Hamaspik of Kings County, Inc. ("Hamaspik") from Congregation Machne Ger ("the Corporation") for the Camp Property, dated May 15, 2025 ("the Hamaspik Lease") and (B) that all real estate taxes refunded or to be refunded by the County, Town and Central School District to the Corporation related to the Camp Property ("the Refunded Taxes"), be placed in an escrow account to be controlled jointly by counsel for Plaintiffs and counsel for Defendants, pending the trial in this Action and the determination of whether Plaintiffs or Defendants are the proper and lawful trustees of the Corporation.

The two motions are consolidated for disposition.

I. BACKGROUND

This action arises from a long-standing dispute over the governance and control of Congregation Machne Ger (the "Corporation") and its summer camp property in Sullivan County (the "Camp Property"). Historically, the Camp served children of the Ger Community for approximately four decades. Since 2020, control has been contested between two factions: the Cohen Group (Plaintiffs) and the Berliner Group (Defendants).

Currently, the Berliner Group maintains control of the property and over the last several years has entered into lease agreements with Hamaspik of Kings County, Inc. ("Hamaspik"), in which the Camp Property was leased to Hamaspik for summer sessions at substantial annual rental rates. On October 14, 2025, this Court issued a Decision and Order which, *inter alia*, denying the Berliner Group's motion for a preliminary injunction granting them exclusive access and control and denied the Cohen Group's motion for the appointment of a temporary receiver.

II. MOTION SEQUENCE #4:

Defendants' application for a preliminary injunction is DENIED.

It is well settled that to prevail on a motion for a preliminary injunction, the movant must demonstrate by clear and convincing evidence, (1) a likelihood of ultimate success on the merits,

(2) irreparable injury absent the granting of the preliminary injunction, and (3) that a balancing of equities favors the movant's position (*see*, CPLR 6301, *Price Paper and Twine Co. v. Miller*, 182 A.D.2d 748, 582 N.Y.S.2d 746; *Walter Karl, Inc. v. Wood*, 137 A.D.2d 22, 528 N.Y.S.2d 94). Economic losses which are compensable by money damages does not constitute irreparable harm" (*Family-Friendly Media, Inc. v. Recorder Television Network*, 74 A.D.3d 738, 739, 903 N.Y.S.2d 80, *EdCia Corp. v. McCormack*, 44 A.D.3d 991, 993, 845 N.Y.S.2d 104).

As this Court previously observed in the October 14, 2025 Order, governance issues remain "sharply contested," and Defendants have failed to demonstrate a likelihood of success on the merits of their claim to exclusive authority. Furthermore, as Plaintiffs correctly argue, a second motion for a preliminary injunction cannot be made on the same general grounds as a previously denied application unless the denial was without prejudice. Because the Court already found Defendants' showing legally insufficient to warrant exclusive control, this successive application—which seeks substantially the same relief—must be rejected as an impermissible "second bite at the apple".

Finally, the Defendants have not demonstrated by clear and convincing evidence irreparable injury. The alleged harm—the potential loss of anticipated rental income—is purely monetary and compensable through damages, constituting an "adequate remedy at law" that precludes injunctive relief.

III. MOTION SEQUENCE #5:

Plaintiffs' cross-motion for an order directing the escrow of rental proceeds and tax refunds is also **DENIED**.

Plaintiffs contend that escrowing is necessary to prevent the Berliner Group from "pocketing" and dissipating hundreds of thousands of dollars in rent for personal benefit or legal fees. They argue that under *Zonghetti v. Jeromack*, 150 A.D.2d 561, 541 N.Y.S.2d 235, the Court should preserve the assets to prevent any final judgment from being rendered ineffectual. The Court finds this argument unpersuasive. Clearly, Plaintiffs claimed injury is purely monetary and as stated above, economic losses which are compensable by money damages does not constitute irreparable harm. Further, Plaintiffs' claims of financial mismanagement and

conversion of corporate funds were not demonstrated by clear and convincing evidence. Lastly, Defendants have raised serious questions regarding Plaintiff Yehuda Cohen's standing, noting, among other things, that he resided in Israel since 2011.

For the foregoing reasons, it is hereby

ORDERED that Defendants' Motion (Motion Seq. #4) for a temporary restraining order and preliminary injunction is **DENIED**; and it is further

ORDERED that Plaintiffs' Cross-Motion (Motion Seq. #5) for an order directing the escrow of rental proceeds and tax refunds is **DENIED**.

Dated: April 22, 2026

PPS

PETER P. SWEENEY, J.S.C.