

<b>Morgan v St Mark's World Acquisition LLC</b>
2026 NY Slip Op 32031(U)
May 11, 2026
Supreme Court, New York County
Docket Number: Index No. 651186/2021
Judge: Andrea Masley
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SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 48

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DR. MICHAEL MORGAN,  
  
Plaintiff,

INDEX NO. 651186/2021

MOTION DATE \_\_\_\_\_

- v -

ST MARK'S WORLD ACQUISITION LLC and ST. MARKS  
WORLD INC,

MOTION SEQ. NO. 008

Defendants.

**DECISION + ORDER ON  
MOTION**

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HON. ANDREA MASLEY:

The following e-filed documents, listed by NYSCEF document number (Motion 008) 254, 255, 256, 257, 258, 259, 260, 261, 263, 264

were read on this motion to/for HEARING.

In motion sequence number 008, plaintiff Dr. Michael Morgan moves to reject JHO Charles Edward Ramos's (ret.) report and recommendation (the Report). (NYSCEF Doc. No. [NYSCEF] 245, Notice of Motion.) Defendants oppose the motion and seek to confirm the Report. (NYSCEF 258, Notice of Cross Motion.)

In motion sequence 007, defendants moved for a protective order pursuant to CPLR 3103 limiting plaintiff's document demands to the issues,<sup>1</sup> and plaintiff cross moved to compel discovery and also sought a limited protective order. (NYSCEF 222, Notice of Motion and NYSCEF 233 Notice of Cross Motion.) In January 2026, the court referred defendants' motion sequence 007 to JHO Ramos, who was supervising discovery, to hear and report to this court. (NYSCEF 247, January 24, 2026 Order of

<sup>1</sup> The central issues are: "how much is Dr. Morgan owed, if any for sale of 80% of the business and how much is Dr. Morgan owed, if any, for distributions in 2021-2024." (NYSCEF 208, September 30, 2025 Case Management Order.)

Reference.) Upon submissions from both parties, JHO Ramos filed the Report recommending that the court grant defendants' motion for a protective order and deny plaintiff's cross motion. (NYSCEF 253.)

### Legal Standard

New York recognizes two types of references to referees<sup>2</sup>: "to hear and report" (CPLR 4301) and "to hear and determine" (CPLR 4302,<sup>3</sup> 4317.) (CPLR 4001, 4212, 4211.) "The former function merely "as an aid to the court" while the latter have been permitted even to direct entry of the final appealable judgment." (*Motor Veh. Mfrs. Ass'n of U.S., Inc. v State*, 75 NY2d 175, 190-91 [1990] [citations omitted].) Since the parties did not consent to hear and determine, the reference here is one to report.

The "scope of the referee's duties are defined by order of reference." (See CPLR 4311; *Al Moynee Holdings, Ltd. v Deutsche* (254 AD2d 443 [2d Dept 1998].) A referee "may not proceed beyond the order of reference; nor, stop indeed may he short of it." (*Gonzalez v Motor Vehicle Acc. Indemnification Corp.*, 48 Misc 2d 958, 963 [Sup Ct, NY County 1966].) Once the referee issues a report, the court may (1) confirm or reject, in whole or in part, the report of the referee, (2)make new findings with or

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<sup>2</sup> "The JHO program was established by Judiciary Law article 22 which authorizes, without limitation to a particular court, the assignment of a JHO so long as the assignment is in conformance with the law and rules of the Chief Administrator of the courts (Judiciary Law § 851[2] ). Like the Judiciary Law, the rules of the Chief Administrator contain no limitation as to the court or proceeding to which a JHO may be assigned (22 N.Y.C.R.R. part 122)." (*Matter of Heather J*, 244 AD2d 762, 763 [3d Dept 1997].)

<sup>3</sup> "[T]he term referee shall be deemed to include judicial hearing officer." (CPLR 4301.)

without taking additional testimony or (3) may order a new trial or hearing.<sup>4</sup> (CPLR 4402; *In re Cohen*, 215 AD2d 341 [1<sup>st</sup> Dept 1995].)

"Generally, New York courts will look with favor upon a Referee's report, inasmuch as the Referee, as trier of fact, is considered to be in the best position to determine the issues presented." (*Namer v 152-54-56 W. 15th St. Realty Corp.*, 108 AD2d 705, 706 [1st Dept 1985]).

### Discussion

Plaintiff moves to reject the Report because JHO Ramos "failed to follow the Court's instructions." (NYSCEF 255, Morgan aff ¶ 3.) Plaintiff argues that JHO Ramos exceeded the scope of the Order of Reference because he "determined the motion" and was only ordered to "hear and report to this court." (*Id.* at ¶ 2.) Plaintiff also argues that JHO Ramos failed to address the required issues. (*Id.*) Plaintiff further states that JHO Ramos exceeded the 30-day time limit a referee has to submit his decision. (NYSCEF 263, Plaintiff's MOL in Opposition at 9.)

On January 24, 2026, the Order of Reference directed JHO Ramos "to hear and report with respect to all issues raised by the motion for protective order, including but not limited to any issues of fact, law and the appropriate disposition of said motion." (NYSCEF 247, Order of Reference.) On February 24, 2026, the court issued a court notice inquiring of the parties, whether they wished to add any documents for consideration by JHO Ramos before he filed his report and to confirm the list of documents. (NYSCEF 248, Court Notice.) On March 2, 2026, JHO Ramos made his

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<sup>4</sup> Had the reference been to hear and determine, then the parties would appeal to the Appellate Division, First Department; there would be no motion to confirm or reject. (*Muir v Cuneo*, 251 AD2d 638 [2d Dept 1998].)

report to the court recommending that the court grant motion sequence 007 and deny plaintiff's cross motion because plaintiff's demands exceeded the scope of the court's order. (NYSCEF 253, Report.)

Plaintiff's argument that JHO Ramos "determined" the motion (NYSCEF 255 Morgan aff ¶ 3; NYSCEF 263, Plaintiff's MOL in Opposition at 9), confuses resolution of an issue before the court and the procedure of referring a matter to a referee/JHO to hear and report or the parties agreeing to a reference to hear and determine. (*Motor Veh. Mfrs. Ass'n of U.S., Inc.*, 75 NY2d at 190-91 [1990] [referee/JHO aids the court.]

Plaintiff argues that JHO Ramos exceeded the 30-day deadline to file his report. (NYSCEF 263, Plaintiff's MOL in Opposition at 9.) Again, the court finds that plaintiff's argument is without merit. CPLR 4320(b) directs the referee to render a report, "within 30 days after the cause or matter is *finally* submitted. (CPLR 4320(b), emphasis added.) JHO Ramos received a confirmation of submission of all documents after the February 24, 2026 court notice was sent to the parties. (See NYSCEF 251, plaintiff's email; NYSCEF 249, defendants' email.) He issued his Report on March 2, 2026, within one week after full submission of the motion. (NYSCEF 253, Report.) Thus, JHO Ramos's Report is timely

Upon review of the documents submitted by the parties in support of motion sequence 007, the court finds that JHO Ramos's report is supported and based on the record. Plaintiff requested the following documents which are facially beyond the scope of the central issues: (15) Documentation, including loan applications and promissory notes, with reference to related party loans, due to/from, loans/notes receivable, and payable; (17) List of all insurance policies, cash surrender value, and policy loans

thereon, if any; and (19) Any other pertinent financial agreements and/or records for any other investments, joint ventures, tax shelters, and other assets for which Defendants and/or any other entity has an interest, whether direct or indirect. (NYSCEF 228, Plaintiff's document demands.)<sup>5</sup> Further, since Judge Pitman decided the issue of distributions through 2020, the central issues relate to 2021 to present. (NYSCEF 229, Final Arbitration Award.) Therefore, the court rejects plaintiff's argument that JHO Ramos failed to address the required issues.

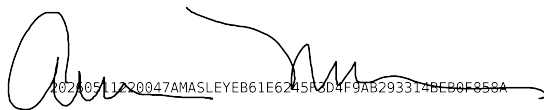
Accordingly, it is

ORDERED, that the Report and Recommendation of JHO Charles Edward Ramos (ret.) dated March 2, 2026 is confirmed and adopted in its entirety; and it is further

ORDERED that plaintiff's motion to reject JHO Ramos report is denied; and it is further

ORDERED that defendants' motion 007 for protective order pursuant to CPLR 3103 is granted in its entirety; and it is further

ORDERED plaintiff's cross motion to compel discovery and a limited protective order is denied.



5/11/2026  
DATE

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ANDREA MASLEY, J.S.C.

CHECK ONE:

CASE DISPOSED  
GRANTED  DENIED  
SETTLE ORDER  
INCLUDES TRANSFER/REASSIGN

NON-FINAL DISPOSITION  
GRANTED IN PART  OTHER  
SUBMIT ORDER  
FIDUCIARY APPOINTMENT  REFERENCE

APPLICATION:

CHECK IF APPROPRIATE:

<sup>5</sup> Parties are reminded to use NYSCEF numbers.  
651186/2021 MORGAN, DR. MICHAEL vs. ST MARK'S WORLD ACQUISITION  
Motion No. 008