CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF NEW YORK: HOUSING PART F

LESMHA LP

Petitioner,

-against-

ROBERT VASQUEZ; "JOHN DOE"; "JANE DOE"
Respondents.

Index No. 305037/21

**DECISION/ORDER**

Motion Sequence No. 2-3

HON KAREN MAY BACDAYAN, JHC

*SDK Heiberger LLP* (*Eric H. Kahan, Esq.*), for the petitioner
*Housing Conservation Coordinators* (*Hiram Jose Lopez Rodriguez, Esq.*), for respondent Robert Vasquez

Recitation, as required by CPLR 2219 (a) of the papers considered in review of this motion by NYSCEF Doc No: 10-50.

**PROCEDURAL HISTORY AND BACKGROUND**

This is a holdover proceeding commenced against Robert Vasquez ("respondent") and two unnamed respondents, based upon respondent's failure to sign a rent-stabilized lease renewal. (NYSCEF Doc No. 1, petition.) Petitioner served respondent with a predicate combined fifteen (15) day and thirty (30) day notice of termination, which cites to Rent Stabilization Code [9 NYCRR] § 2524.3 [f], alleging respondent refused to renew his expiring rent-stabilized lease and directing respondent to vacate by June 30, 2021. (*Id.*) Petitioner served the notice of petition and petition on August 11, 2021, with the notice of petition stating that the court date would be on a date to be determined. (NYSCEF Doc No. 4, notice of petition – assigned; NYSCEF Doc No. 6, affidavit of service.) On June 15, 2022, respondent's attorney filed a notice of appearance, as well as a notice that respondent filed an application for the Emergency Rental Assistance Program ("ERAP"). (NYSCEF Doc No. 7, notice of appearance; NYSCEF Doc No. 8, notice of ERAP.) The case was automatically stayed due to the pending ERAP application. (*See* L 2021, ch 417, § 2, part A, § 8, as amended by L 2021, ch 417, § 2, part A, § 4; Admin Order of Chief Admin Judge of Cts AO/34/22.)

In November 2022, the parties consented to restore the proceeding and adjourn for respondent to serve and file an answer, which was filed on December 1, 2022. (NYSCEF Doc

No. 10, notice of motion [sequence 1]; NYSCEF Doc No. 17, stipulation; NYSCEF Doc No. 18, answer.) Respondent's verified answer raises an affirmative defense that petitioner offered an improper lease renewal. Respondent alleges his initial lease was for a 99-year term commencing November 13, 1992 and ending November 13, 2091. (NYSCEF Doc No. 18, answer ¶ 5.) He further alleges his original $520.00 rent was based on a percentage of his gross household income, that petitioner registered the rent with the Division of Housing and Community Renewal ("DHCR") in 1992 at $520.00, and that subsequent DHCR registrations improperly raised the rent and were contrary to the terms and conditions of his 99-year lease. (*Id.* ¶¶ 6-8.) Thus, respondent argues that the lease renewal offer in question was an improper lease renewal offer. (*Id.* ¶¶ 9-10.) The answer also raises a rent overcharge counterclaim, claiming that the base date rent is fraudulent because petitioner knew or should have known it could not charge a legal regulated rent of $540.80 or higher, that the overcharge was willful, and that the default formula must be used to calculate the base date rent and any rent overcharge. (*Id.* ¶¶ 13-18.) Respondent also raised a counterclaim for attorneys' fees. (*Id.* ¶ 22.)

On December 22, 2022, respondent served a demand for a bill of particulars, demanding all lease agreements and renewals between the parties, the basis for establishing the rent amount in all of respondent's leases, as well as certified copies of all lease agreements and renewals between the parties. (NYSCEF Doc No. 19, demand for bill of particulars.) Petitioner moved in January 2023 to strike the demand for a bill of particulars, strike respondent's affirmative defenses and counterclaims, and grant petitioner summary judgment with a final judgment of possession, issuance of a warrant of eviction, and a money judgment of $18,302.41 for outstanding rent/use and occupancy owed through January 2023. (NYSCEF Doc No. 20, notice of motion [sequence 2].)

Petitioner attaches three (3) regulatory agreements to its motion. The first is a 1990 regulatory agreement between the Housing Trust Fund Corporation ("HTFC") and the Lower East Side Mutual Housing Association, Inc. ("LESMHA Inc."), the then-owner of the subject building. Pursuant to the agreement, HTFC provided financing to LESMHA Inc. to acquire the subject property and construct a mixed-income housing project for a total of 48 apartment, 34 of which would be subject to the Turnkey Program. (NYSCEF Doc No. 24, petitioner's exhibit B, 1990 regulatory agreement.) LESMHA Inc. was to require tenants to submit annual income affidavits. (*Id.* ¶ 8 [d].) The parties were to submit to DHCR a "multi-tier rent schedule to

establish the market rents and the rent to be charged to each tenant[,]" while HTFC was to obtain a DHCR order to allow the owner to "collect basic and market rents in accordance with the Schedule of Basic and Market Rents as approved and amended by the [HTFC] from time to time and to vary such rents in accordance with the Regulations." (*Id.* ¶ 9(a).)

Petitioner provides a 1992 amended regulatory agreement; pursuant to paragraph 9 (a) of said agreement, LESMHA Inc. was required to "collect initial and market rents in accordance with the Schedule of Initial and Market Rents as approved and amended by the [HTFC] from time to time." (*Id.* at 44.)[1] Petitioner also provides a 1994 supplemental regulatory agreement, whereby the parties acknowledged that LESMHA Inc. is the general partner of the petitioner, and agreed that LESMHA Inc. would "cause [petitioner] to hold for occupancy 34 of the apartment units in the Project (the "Tax Credit Units") and shall charge tenants in the Tax Credit Units rental rates no greater than permitted, all in such a manner as to qualify each of the Tax Credit Units as a 'low income unit' under Section 42 (i) (3) of the [Internal Revenue Code], and to qualify the Project as a 'qualified low income housing project' under Section 42 (g) (1) (B) of the [Internal Revenue Code] . . . ." (NYSCEF Doc No. 25, petitioner's exhibit C, 1994 regulatory agreement.)

Petitioner contends the demand for a verified bill of particulars amounts to improper discovery for which respondent did not seek or receive leave from the court. (NYSCEF Doc No. 21, petitioners' attorney's affirmation ¶¶ 12-16.) In regard to dismissal of respondent's affirmative defense, petitioner vigorously denies the validity of respondent's 99-year lease, claiming respondent "manipulated the [l]ease form to try to reflect the false ninety-nine (99) year term[.]" (NYSCEF Doc No. 22, Ramirez affidavit ¶¶ 24-27.) Petitioner attaches copies of respondent's initial two-year lease commencing November 13, 1992 and ending November 13, 1994, as well as subsequent two-year lease renewals from 1994 through 2018. (NYSCEF Doc No. 26, petitioner's exhibit D, initial lease; NYSCEF Doc No. 27, petitioner's exhibit E, lease renewals.) Eleven of the fourteen lease renewals executed between 1994 and 2018 were rent-stabilized lease renewals, while the three other leases were entitled "Lease Renewal for Low Income Housing Tax Credits" and offered respondent a choice of a one or two year lease term. Two of those three leases state that the lease "is not subject to the laws of the rent stabilization

[1] Neither side attached any schedule of initial, basic, and market rents for the subject building.

code, except for the express purpose of applicable rent guideline increases." (NYSCEF Doc No. 27, petitioner's exhibit E, lease renewals.)

Petitioner argues that respondent's rent is *not* set at a percentage of his income. Rather, petitioner cites to paragraph 9 of respondent's initial lease, which states:

> "If this Lease is for a Rent Stabilized apartment, the rent shall be adjusted up or down during the Lease term, including retroactively, to conform to the Rent Guidelines or any changes in the Rent Guidelines as issued by the Rent Guidelines Board. Where Landlord, upon application to [DHCR] is found to be entitled to an increase in rent or other relief, You and Landlord agree: a. to be bound by the determination of [DHCR]; and, b. where [DHCR] has granted an increase in rent, You shall pay such increase in the manner set forth by [DHCR] . . . ." (NYSCEF Doc No. 22, Ramirez affidavit ¶ 16; NYSCEF Doc No. 26, petitioner's exhibit D, initial lease ¶ 9.)

Petitioner contends that pursuant to the lease, it properly applied Rent Guidelines Board ("RGB") increases to all of respondent's lease renewals. (NYSCEF Doc No. 21, petitioner's attorney's affirmation ¶¶ 33; (NYSCEF Doc No. 22, Ramirez affidavit ¶ 13.) Petitioner further argues respondent's rent overcharge counterclaim must be stricken because respondent has only been charged RGB increases as reflected in his lease renewals. (*Id.* ¶ 44.)[2] Petitioner also contends that respondent's counterclaim for attorney's fees should be stricken because a respondent cannot seek attorneys' fees in a summary proceeding under the Housing Stability and Tenant Protection Act ("HSTPA"). (*Id.* ¶¶ 48-52.)

In support of summary judgment, petitioner simply states there are no issues of fact. (*Id.* ¶ 62.) Petitioner also seeks use and occupancy pursuant to Real Property Law ("RPL") § 220, in the amount of $18,302.41, reflecting all arrears through January 2023, as well as ongoing use and occupancy until petitioner is granted possession of the subject premises.[3] Petitioner argues it would be "against equity and good conscience to permit [] [r]espondent to retain this benefit with compensating [] [p]etitioner, because doing so would result in wrongful windfall to []

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[2] The court notes that beginning in 1998, petitioner began to register legal regulated rents at amounts higher than those in the lease renewals. Petitioner registered the amounts in the lease renewals as "actual rent paid" on the annual DHCR registration statements. NYSCEF Doc No. 27, petitioner's exhibit E, renewal leases; NYSCEF Doc No. 33, petitioner's exhibit K, DHCR registrations.

[3] The court notes that the rent ledger indicates respondent has received a Disability Rent Increase Exemption ("DRIE") dating back to November 2019, raising further issues of fact as to the status of the apartment, and what the rent should be. NYSCEF Doc No. 35, petitioner's exhibit M, rent ledger.

[r]espondent at the expense of [p]etitioner."(*Id.* ¶¶ 54-58; NYSCEF Doc No. 35, petitioner's exhibit M, rent ledger.)

Respondent has cross-moved to dismiss the proceeding under CPLR 3211 [a] [2] and/or [a] [7], or alternatively to deny petitioner's motion. (NYSCEF Doc No. 41, notice of cross-motion [sequence 3].) Respondent alleges he was offered two leases when he moved to the subject premises in 1992, one for a two (2) year lease term and another for a 99-year lease term, but that all other provisions of the two leases were the same. (NYSCEF Doc No. 43, Vasquez affidavit ¶ 4.) Respondent avers that both leases allowed a disabled tenant to maintain a rent no greater than 30 percent of their income, and that the initial rent of $520.00 in both leases equaled 30 percent of his income when he signed both leases in 1992. (*Id.*) Respondent claims he signed both leases because he was informed the building would eventually become a cooperative and he would become a shareholder or an owner of the subject premises. (*Id.*) He acknowledges signing subsequent lease renewals with rent increases and avers that he did not question the rent increases in prior nonpayment proceedings because he did not have legal representation in those proceedings. (*Id.* ¶¶ 4, 8-9.) Respondent further contends that the DHCR rent registrations are unreliable because petitioner increased the rent pursuant to RGB increases instead of determining the rent as a percentage of his income. (NYSCEF Doc No. 42, petitioner's attorney's affirmation ¶ 21.) In support of dismissal, respondent contends petitioner made an improper lease renewal offer that did not contain a rent based on 30 percent of his income and thus the lease offer changed the terms and conditions of his original lease, requiring dismissal of the proceeding. (*Id.* ¶¶ 23-32.) In opposition to petitioner's motion, respondent argues there are issues of fact regarding the length and terms of his original lease and how his rents were to be properly calculated in the original lease and in subsequent lease renewals. (*Id.* ¶¶ 42-43.) Respondent does not specifically raise any opposition to petitioner's request for use and occupancy pursuant to RPL 220.

In reply, petitioner describes respondent's argument that the rent should be based on his yearly income as "meritless and contradicted by documentary evidence." (NYSCEF Doc No. 50, petitioner's attorney's affirmation in reply ¶ 19.) Petitioner directs the court's attention to the fact that none of respondent's lease renewals set a monthly rent based on respondent's income, but rather based on RGB increases, including the lease renewal offer in question, and thus

respondent was not overcharged. (*Id.* ¶¶ 22, 34-38.) Respondent did not file a reply for his cross-motion to dismiss.

At oral argument, respondent conceded that the demand for a bill of particulars improperly sought discovery.

**DISCUSSION**

**Petitioner's Motion to Strike the Demand for a Bill of Particulars**

"The purpose of a bill of particulars [is] to amplify the pleadings, limit the proof and prevent surprise at trial (citations omitted) . . . ." (*Miccarelli v Fleiss*, 219 AD2d 469, 470 [1st Dept 1995]; *Somma v Sears, Roebuck & Co.*, 52 AD2d 784, 784 [1st Dept 1976] ["The function of a bill of particulars is to amplify the pleadings and not to afford evidentiary material (citations omitted)."]) However, the rule that a bill of particulars may not be used as an "evidence-producing device . . . is not an inflexible one." (*Twiddy v Standard Marine Transport Services, Inc.*, 162 AD2d 264 [1st Dept 1990] ("A rigid adherence to the purpose behind a bill of particulars in this case would only result in additional meaningless time-consuming motion practice."])

Here, the demand for a verified bill of particulars includes a demand for a list of "lease agreement, renewals, or agreements" between the parties to pay rent, the date of such agreements, the rents charged in those agreement, the basis for establishing respondent's initial rent when his tenancy commenced in 1992, the basis for the rents set in each subsequent agreement, and certified copies of all such agreements. (NYSCEF Doc No. 19, demand for bill of particulars ¶ 1(a) -1(c).) Clearly, a demand for documents falls under the pre-trial disclosure, for which respondent never sought leave from the court, much less obtained permission from the court to engage in discovery. The demand for a verified bill of particulars is therefore stricken without prejudice to respondent serving a proper demand or moving for discovery pursuant to CPLR 408.

**Petitioner's Motion to Strike Respondent's Affirmative Defense and Counterclaims**

A motion to dismiss a defense pursuant to CPLR 3211 [b] "is akin to that used under CPLR 3211 [a] [7], i.e., whether there is any legal or factual basis for the assertion of the defense." (*3505 BWAY Owner LLC v McNeely*, 67 Misc 3d 583, 584 [Civ Ct, New York County 2020, *affd*, 72 Misc 3d 1 [App Term, 1st Dept 2021].) "The allegations set forth in the answer must be liberally construed and viewed in the light most favorable to the respondent," who is

entitled to the benefit of every reasonable inference. (*182 Fifth Ave. v Design Dev. Concepts*, 300 AD2d 198, 199 [1st Dept 2002]). CPLR 3211 [b] provides "[a] party may move for judgment dismissing one or more defenses, on the ground that a defense is not stated or has no merit." Furthermore, "[s]tatements in a pleading shall be sufficiently particular to give the court and parties notice of the transactions, occurrences, or series of transactions or occurrences, intended to be proved and the material elements of each cause of action or defense." (CPLR 3013.)

Respondent's first affirmative defense is that the lease renewal offer was improper because his first lease agreement was for a 99-year lease term and thus the lease offer in question "does not contain 'the same terms and conditions' as [respondent's] original lease." (NYSCEF Doc No. 18, verified answer ¶¶ 4-5, 10.) The affirmative defense also alleges that petitioner has improperly increased respondent's rent based on RGB increases, when the initial lease requires respondent's rent to be set as a percentage of his income. Respondent points to a 1994 DHCR registration which increased the legal regulated rent to $540.80 and a 1998 DHCR registration that increased the legal regulated rent to $1,092.00.

Respondent's affirmative defense is meritorious; his initial lease term (whether one looks to the 99-year lease term or the 2-year lease term) explicitly states that respondent's monthly rent would be "assessed as a percentage of [respondent's] adjusted gross household income . . . ." (NYSCEF Doc No. 26, respondent's exhibit D, original lease agreements.) Paragraph 5 (A) states respondent must verify his income on a yearly base "[f]or the purpose of determining [respondent's] rent[,]" while paragraph 5 (F) states that his monthly rent would be "at least the Lower Legal Rent but no more than the lesser of the Market Rent stated for that term of the lease or thirty (30) percent of your income." (*Id.*) Petitioner relies on the fact that Paragraph 9 of the lease allows for respondent's initial rent to be increased pursuant to RGB increases in subsequent lease renewals. (NYSCEF Doc No. 21, petitioner's attorney's affirmation ¶ 33.) However, this is not what is explicitly allowed under paragraph 9: the language states that "[i]f this Lease is for a Rent Stabilized apartment, the rent shall be adjusted up or down *during the Lease Term*, including retroactively, to conform to the Rent Guidelines or any changed in the Rent Guidelines as issued by the Rent Guidelines Board (emphasis added)." (NYSCEF Doc No. 26, petitioner's exhibit D, 1992 lease agreement ¶ 9.) This clause does not state that petitioner can increase the rent in lease renewals based on RGB increases, only that during the term of that two-year lease

petitioner had the right to adjust the rent to conform with rent guidelines adjustments. Petitioner's motion to strike the affirmative defense is therefore denied.

Petitioner also moves to strike respondent's counterclaim for rent overcharge. Respondent contends petitioner has charged and he has paid rent in excess of what is permissible, that petitioner's registrations of legal regulated rents have no basis, and that the base date rent is fraudulent. (NYSCEF Doc No. 18, answer ¶¶ 13-14.) A cause of action must be stated with specificity. (CPLR 3013.) A cause of action sounding in fraud must detail the circumstances constituting the elements of the wrong. (CPLR 3016 [b].) "Fraud consists of evidence [of] a representation of material fact, falsity, scienter, reliance and injury." (*Matter of Regina Metro. Co., LLC*, 35 NY3d 332, 356 n 7 [internal quotation marks and citations omitted].) To plead fraud, a tenant must "adequately allege[] a misrepresentation or failure to disclose a material fact, falsity, scienter, justifiable reliance . . . and damages." (*Id.* at 356 n 7.) Since *Regina* was decided, courts have clarified that the fraud exception to the four-year look-back restriction applies to unlawful deregulation claims, as well as claims of *unlawful overcharge* as in the case at bar. (*435 Cent. Park W. Tenant Ass'n v Park Front Apts., LLC,* 183 AD3d 509, 510 [1st Dept 2020]; *Montera v KMR Amsterdam LLC*, 193 AD3d 102 [1st Dept 2021].) Here, the answer is devoid of any allegations that respondent relied upon the rents included in the lease renewals and charged by petitioner, or that respondent suffered injury as a result of the alleged fraudulent conduct. (*See 435 Cent. Park W. Tenant Ass'n.* at 510 ["[R]eliance on the false representation must result in injury, and if the fraud causes no loss, then the plaintiff has suffered no damages. . . . actual injury must be alleged (internal citations omitted)."]) However, the court cannot find that respondent's overcharge claim is devoid of merit for the following reasons: 1) Petitioner has pleaded the premises as rent stabilized, 2) respondent alleges that he is subject to both rent stabilization and a different, overlapping regulatory scheme which may affect how respondent's permissible rent is calculated, and 3) neither party has provided enough information for the court parse either parties' allegations., Petitioner's motion to strike the rent overcharge counterclaim is therefore denied.

Lastly, without deciding whether attorneys' fees may be sought in a summary proceeding, under the facts and circumstances, respondent's counterclaim for attorneys' fees are severed without prejudice to a plenary proceeding.

**Petitioner's Motion for Summary Judgment**

A court may employ the drastic remedy of summary judgment only where there is no doubt as to the absence of triable issues. (*Andre v Pomeroy*, 35 NY2d 361, 364 [1974].) On such a motion, a court's function is to find, rather than to decide, issues of fact. (*Southbridge Towers, Inc. v Renda*, 21 Misc 3d 1138[A], 2008 NY Slip Op 52418[U] [Civ Ct, NY County 2008], citing *Epstein v Scally*, 99 AD2d 713 [1st Dept 1984].) The facts must be considered "in the light most favorable to the non-moving party." (*Ortiz v Varsity Holdings, LLC*, 18 NY3d 335, 339 [2011].) To prevail on a summary judgment motion, the moving party must produce evidentiary proof in admissible form sufficient to warrant the direction of summary judgment in their favor. (*GTF Mktg., Inc. v Colonial Aluminum Sales, Inc.*, 66 NY2d 965, 967 [1985].) Only upon a *prima facie* showing of entitlement to summary judgment, does the burden shift to the non-moving party to establish material issues of fact requiring a trial. (*Vega v Restani Const. Corp.*, 18 NY3d 499, 503 [2012] [internal citations and quotation marks omitted].) When determining a summary judgment motion, courts should not decide issues of credibility. (*See Glick & Dolleck, Inc. v Tri-Pac Export Corp.*, 22 NY2d 439, 441 [1968].) If an issue is "fairly debatable a motion for summary judgment must be denied." (*Stone v Goodson*, 8 NY2d 8, 12 [1960].)

Here, as discussed above, the court has found respondent's affirmative defense has merit and should not be stricken from the answer. Petitioner has failed to eliminate all material issues of fact, perhaps most notably whether or not respondent's rent should be set as a percentage of his income. Petitioner's motion for summary judgment is therefore denied.

**Petitioner's Motion for Use and Occupancy Pursuant to RPL 220**

Petitioner's motion pursuant to Real Property Law 220 for *past due* use and occupancy and subsequently accruing use and occupancy is denied. It is this court's position that RPAPL 745 (2) is the only vehicle for obtaining use and occupancy in a summary proceeding, and RPAPL 745 (2) clearly prescribes that "only rent or use and occupancy that shall accrue subsequent to the date of the court's order" may be collected. (RPAPL 745 [2].)

Even prior to the Housing Stability and Tenant Protection Act ("HSTPA") amendments to RPAPL Section 745, courts found that the payment of use and occupancy in a summary proceeding is governed by RPAPL 745 (2) which limits the relief to certain situations. In *Central Hudson Assoc v Brown,* 1986 NY App Div LEXIS 16708, the Appellate

Division First Department upheld the lower court's exercise of discretion in awarding use and occupancy where the proceeding was protracted and the money was needed to provide essential services. The *Brown* court cited to a prior incarnation of RPAPL 745 (2) as the legal basis for seeking and awarding such relief in a summary proceeding. Portending the HSTPA amendments, the Appellate Division modified the lower court's award to allow for *prospective* relief only. (*See also Quality & Ruskin Assoc. v London,* 8 Misc 3d 102 [App Term, 2d Dept 2005] ["as for that branch of the motion seeking use and occupancy *pendente lite*, the availability of same is governed by RPAPL 745(2)"]; *1747 Associates, LLC v Raimova*, 56 Misc 3d 1216[A], 2017 NY Slip Op 51040 [U] [Civ Ct, Kings County, 2017] [in denying a motion for use and occupancy under the prior RPAPL 745 [2] holding that "[a]s compelling as the equities may be … in a summary proceeding, the court's power to direct payment of use and occupancy is not an inherent one governed by a consideration of the equities, but instead derives solely from RPAPL 745."].)

**Respondent's Cross-Motion to Dismiss**

Respondent's cross-motion contends that the proceeding must be dismissed because the rent set in the lease renewal offer was not set at thirty percent of his income and is therefore an improper offer. (NYSCEF Doc No. 42, respondent's attorney's affirmation ¶ 32.) While the court finds merit in respondent's affirmative defense, it makes no findings of fact as to whether petitioner must in fact set respondent's rent at thirty percent of his income. Moreover, respondent does not state in his affidavit what his income was at the time petitioner made the lease offer in question, let alone what thirty percent of his income would have been. (NYSCEF Doc No. 43, Vasquez affidavit ¶ 6.) Respondent's cross-motion to dismiss is therefore denied.

**CONCLUSION**

Accordingly, for the foregoing reasons, it is

ORDERED that petitioner' motion to strike the demand for a verified bill of particulars is GRANTED without prejudice to respondent serving a proper demand for a verified bill of particulars, or properly moving for discovery pursuant to CPLR 406; and it is further

ORDERED that petitioner's motion to strike respondent's affirmative defense and counterclaim for rent overcharge is DENIED, while respondent's counterclaim for attorney's fees is severed without prejudice to a plenary proceeding; and it is further

ORDERED that petitioner's motion for summary judgment is DENIED; and it is further

ORDERED that petitioner's motion for use and occupancy pursuant to RPL 220 is DENIED without prejudice to a motion for use and occupancy pursuant to RPAPL 745 (2); and it is further

ORDERED that respondent's cross-motion to dismiss is DENIED; and it is further

ORDERED that the parties shall appear in Room 523, Part F of the New York County Civil Courthouse at May 24, 2023 at 2:30 p.m. for a briefing schedule as contemplated during oral argument, settlement, or a pre-trial conference.

This constitutes the decision and order of this court.

Dated: May 16, 2023
New York, NY

So Ordered:
Hon. Karen May Bacdayan

HON. KAREN MAY BACDAYAN
Judge, Housing Part