

## [61 E. 72nd St. Corp. v. Modell](#)

Supreme Court of New York, New York County

September 11, 2025, Decided

INDEX NO. 153588/2022

### Reporter

2025 N.Y. Misc. LEXIS 7581 \*; 2025 NY Slip Op 33433(U) \*\*; 2025 LX 442227

**[\*\*1]** 61 EAST 72ND STREET CORPORATION,  
Plaintiff, - v. - LESLIE MODELL, Defendant.

**Notice:** THIS OPINION IS UNCORRECTED AND WILL NOT BE PUBLISHED IN THE PRINTED OFFICIAL REPORTS.

**Prior History:** [61 E. 72nd St. Corp. v. Modell, 2024 N.Y. Misc. LEXIS 4718 \(N.Y. Sup. Ct., June 25, 2024\)](#)

**Judges:** **[\*1]** HON. ROBERT R. REED, J.S.C.

**Opinion by:** ROBERT R. REED

## Opinion

### DECISION + ORDER - INCLUDES REFERENCE

#### HON. ROBERT R. REED:

The following e-filed documents, listed by NYSCEF document number (Motion 006) 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 106, 107, 105, 108, 109, 110, 112, 113, 111, 114, 115, 116, 117, 118, 119, 121, 120, 122, 123, 124, 125, 126, 127, 128, 129, 130, 132, 131, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 146, 144, 145, 147, 148, 149, 150, 151, 152, 153, 154, 156, 155, 157, 158, 159, 173 were read on this motion for JUDGMENT - SUMMARY.

Plaintiff 61 E. 72nd Street Corporation moves pursuant to [CPLR 3212](#), for an order granting plaintiff summary judgment on: (1) plaintiff's First Cause of Action, requesting an order of ejectment against Defendant Leslie Modell and for issuance of a Warrant of Eviction to remove defendant from the premises known as First Floor apartment at 61 E. 72nd Street, New York, New York (apartment), awarding sole and exclusive possession of the apartment to plaintiff, and directing the Sheriff and/or Marshal of the City of New York,

County of New York, to immediately remove defendant (and any other persons claiming any right, title, or interest **[\*2]** therein through defendant) and defendant's property from the apartment and restore plaintiff to possession of the apartment, and (2) directing defendant to surrender to plaintiff the certificate for the shares of plaintiff allocated to the apartment; (3) on plaintiff's Second Cause of Action, issuing a money judgment in favor of plaintiff and against defendant for all rent (maintenance), additional rent (additional maintenance), and other charges due and accrued from **[\*\*2]** defendant up to the date of termination of the Proprietary Lease for the apartment (Lease), and scheduling a hearing before the Court to determine the amount of such judgment; (4) on plaintiffs Third Cause of Action, issuing a money judgment in favor of plaintiff and against defendant for costs, expenses, disbursements, and attorneys' fees plaintiff has incurred as a result of defendant's defaults under the Lease, rent, additional rent, and other charges due and accrued from defendant from the date after termination of the Lease through the date of the final accounting between plaintiff and defendant, and court costs, disbursements, and reasonable attorneys' fees plaintiff has incurred in connection with this action and **[\*3]** defense of defendant's counterclaim, and scheduling a hearing before the Court to determine the amount of such judgment; and for an order pursuant to [CPLR 3211\(b\)](#) and/or [CPLR 3212](#), granting plaintiff summary judgment against defendant dismissing each and every affirmative defense of defendant set forth in defendant's Amended Answer and dismissing defendant's counterclaim for legal fees and expenses.

Plaintiffs complaint alleges that plaintiff is a cooperative corporation and the owner of the building located at 61 E. 72nd Street, New York, New York (Building), and that defendant is a shareholder of plaintiff and the lessee of an apartment under a now-terminated Lease. Since in or about 2012, according to plaintiff, defendant has engaged in an array of **objectionable conduct** in connection with her tenancy of the apartment, including: failing to maintain the interior of the apartment leading to

a series of water leaks into premises below; refusing to allow building staff access to the apartment in order to address urgent and potentially hazardous conditions, including gas leaks and water leaks; knowingly allowing leaks to continue to flow, causing damage to other shareholders' and plaintiffs premises; failing [\*4] to provide plaintiff with proof of required insurance coverage, as required by the proprietary lease; refusing to provide plaintiff with a set [\*\*3] of keys to the apartment, as required by the proprietary lease; leaving garbage in the elevator and packages in common areas of the building; and behaving in a rude, disrespectful, hostile, and obnoxious manner towards building staff. It is asserted that defendant engaged in these actions in express violation of the terms of the proprietary lease and plaintiff's house rules. Although plaintiff sent defendant numerous letters and notices demanding that she cease such **objectionable conduct**, it continued for years.

It is further asserted that, by letter dated December 20, 2021, plaintiff sent defendant a formal notice of defendant's **objectionable conduct**. The notice advised defendant, inter alia, that if she did not cease and desist from her **objectionable conduct**, plaintiff's Board of Directors (Board) would schedule a special meeting to consider and vote on a resolution to terminate defendant's proprietary lease. Following defendant's receipt of the December 20, 2021 notice, defendant continued to engage in **objectionable conduct**.

By letter dated [\*5] February 1, 2022, plaintiff notified defendant that a special meeting of the Board had been scheduled for March 8, 2022, beginning at 1:00 p.m., to consider and vote on a resolution approving termination of defendant's lease based on her conduct and invited defendant to attend the meeting to present her position. The special meeting was held on March 8, 2022. Defendant did not appear. The Board voted in favor of the resolution approving termination of defendant's proprietary lease pursuant to Paragraph 31(f) thereof. Plaintiff sent defendant a Notice of Termination of Proprietary Lease dated March 28, 2022 (Termination Notice), notifying defendant that the Board had voted to terminate her Proprietary Lease and that accordingly, the term of the Proprietary Lease would expire on April 8, 2022 (Termination Date). Defendant did not surrender possession of the apartment to plaintiff and did not surrender to plaintiff the stock certificate for her shares in plaintiff by the Termination Date. Defendant [\*\*4] continues to possess both the apartment and the stock certificate for her shares of plaintiff, without Plaintiff's consent.

Plaintiffs motion was fully returnable on September 3, 2024 and no [\*6] opposition to the motion was filed.

NOW, THEREFORE, the court, having reviewed and considered plaintiffs papers submitted in support of plaintiff's motion, including the Affidavit of Steven Friedman sworn to August 14, 2024, the Affidavit of Niall Donnelly sworn to on August 14, 2024, the Affirmation of Elizabeth D. Schrero dated August 14, 2024, and the exhibits attached thereto; the accompanying Statement of Material Facts and Memorandum of Law; and no [Rule 19-a](#) Counter-Statement of Fact or any papers in opposition to plaintiffs motion were filed, and the court having concluded that the supporting papers establish plaintiffs prima facie entitlement to the relief sought in and by this motion, it is hereby

ORDERED that plaintiff for summary judgment on the first cause of action for ejection is granted, without opposition; and it is further

ORDERED and ADJUDGED that plaintiff is entitled to possession of the apartment located on the First Floor of 61 E. 72nd Street, New York, New York as against defendant; and the Sheriff of the City of New York, County of New York, upon receipt of a certified copy of this Order and Judgment and payment of proper fees, is directed to place plaintiff in possession [\*7] accordingly; and it is further

ADJUDGED that immediately upon entry of this Order and Judgment, plaintiff may exercise all acts of ownership and possession of the First Floor of 61 E. 72nd Street, New York, New York, including entry thereto, as against defendant; and it is further

[\*\*5] ORDERED AND ADJUDGED that defendant shall, within ten (10) days of service of notice of entry of this Order and Judgment, surrender to plaintiff the certificate for the shares of 61 East 72nd Street Corporation allocated to the apartment; and it is further

ORDERED AND ADJUDGED that plaintiff is granted a monetary judgment against defendant on plaintiff's Second and Third causes of action, without opposition; and it is further

ORDERED that the balance of the above-entitled action relating to recovery of damages is severed and referred to a Special Referee (Part SRP) for a hearing and reporting on the calculation of damages; and it is further

ORDERED that, within 15 days of the date of this order, counsel for plaintiffs shall serve upon the Special

Referee Clerk by fax (212-401-9186) or e-mail (spref@nycourts.gov) a copy of this order with notice of entry and a completed Information Sheet; and it is further

ORDERED **[\*8]** that a Judicial Hearing Officer ("JHO") or Special Referee shall be designated to hear and report to this court on the following individual issues of fact, which are hereby submitted to the JHO/Special Referee for such purpose: (1) the amounts due and owing to plaintiff for all rent and additional rent and other charges due and accrued as due from defendant up to the date of termination of the Lease, (2) the amounts due and owing to plaintiff for the balance of any rent and additional rent due or accrued as due from defendant from the date after termination of the Lease through the date of the final accounting between plaintiff and defendant, (3) the amounts due and owing to plaintiff for other charges due and accrued as due from defendant and for the court costs, disbursements and reasonable attorneys' fees incurred in connection with this action and defense of defendant's counterclaims; and it is further

ORDERED that the powers of the JHO/Special Referee shall not be limited beyond the limitations set forth in the CPLR; and it is further

**[\*\*6]** ORDERED that this matter is hereby referred to the Special Referee Clerk for placement at the earliest possible date upon the calendar of the Special **[\*9]** Referees Part (Part SRP), which, in accordance with the Rules of that Part (which are posted on the website of this court), shall assign this matter at the initial appearance to an available JHO/Special Referee to hear and report as specified above; and it is further

ORDERED that the parties shall appear for the reference hearing, including with all witnesses and evidence they seek to present, and shall be ready to proceed with the hearing, on the date fixed by the Special Referee Clerk for the initial appearance in the Special Referees Part, subject only to any adjournment that may be authorized by the Special Referees Part in accordance with the Rules of that Part; and it is further

ORDERED that counsel shall file memoranda or other documents directed to the assigned JHO/Special Referee in accordance with the Uniform Rules of the Judicial Hearing Officers and the Special Referees (available at the "References" link on the court's website) by filing same with the New York State Courts Electronic Filing System (see [Rule 2 of the Uniform Rules](#)); and it is further

ORDERED that any motion to confirm or disaffirm the Report of the JHO/Special Referee shall be made within the time and in the manner specified in [CPLR 4403](#) and **[\*10]** [Section 202.44 of the Uniform Rules for the Trial Courts](#); and it is further

**[\*\*7]** ORDERED AND ADJUDGED that defendant's affirmative defenses and remaining counterclaim asserted in defendant's Amended Answer are dismissed, without opposition.

9/11/25

**DATE**

/s/ Robert R. Reed

**ROBERT R. REED, J.S.C.**

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