

WARNING:

**YOUR FAILURE TO APPEAR IN COURT MAY
RESULT IN IMMEDIATE ARREST AND
IMPRISONMENT FOR CONTEMPT OF COURT**

NOTICE:

**THE PURPOSE OF THIS
HEARING IS TO PUNISH YOU
FOR CONTEMPT OF COURT
AND SUCH PUNISHMENT MAY
CONSIST OF A FINE OR
IMPRISONMENT OR BOTH
ACCORDING TO LAW**

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF NEW YORK

Kathleen Rowe, Dionisha Montano, Kari Nichols, Marisol
Correa, Jose Bada, Angela Rodriguez, Matias Matos, Valerie
Jara, Damaris Bello, Hilda Izaguirre, Niulka Pichardo,
Ramon Pizzini, Henry Gomez, Rosa Carrion, Mario Diaz
Garcia, Luis Paniagua, Carmen Bonilla, Laura Wasserman
Ramona Luna, Wendy Nunez, Deyanira Alvarez, Arelis
Taveras, Vianela De La Cruz, Rachel Weingeist
Ebonie McSweeney, Mariely Mendoza, Evelyn Reyes, Yahaira
Paulino, Anya Patterson, Robinson Gonzalez, Andrew Eckert
Stacy Lugo, Manuel Tavarez, Isabelita De La Cruz

Index No. 308011/23

ORDER TO SHOW CAUSE

Petitioners

- against -

Jonathan Samet, Angel Colon, 617 West 141st Street Partners
LLC, US Realty Corp.

Respondents

New York City Department of Housing Preservation and
Development.

Co-Respondent.

Upon the annexed affirmation of Petitioners Bello and Pizzini, the affirmation of Jesse Gribben, Esq, dated April 19, 2024 and the papers annexed hereto, LET Respondent or Respondent's attorney(s) show cause at the Civil Court of the City of New York, County of New York, Housing Part B, to be held at the courthouse thereof, located at 111 Centre Street, NY, NY 10013 on May 16, 2024 at 10:00 am or as soon thereafter as the parties may be heard, **WHY AN**

ORDER SHOULD NOT BE MADE:

- a. Restoring this proceeding to the Court's calendar and issuance of an order directing Petitioners be restored to possession of their homes, in accord with the parties' November 17, 2023 so-ordered stipulation, forthwith; and
- b. Pursuant to CPLR § 5104 and Article 19 of the Judiciary Law, punishing Respondents Jonathan Samet, Angel Colon, 617 West 141st Street Partners LLC, and US Realty Corp. for civil contempt for willful failure to comply with the provisions and mandates of the Parties' So-Ordered Stipulation, dated November 17, 2023 and which failure was calculated to and did actually defeat, impair, impede and prejudice the rights of the Petitioners;

SUFFICIENT CAUSE THEREFORE APPEARING, it is hereby **ORDERED** that service of a copy of this order, together with the papers on which it is based, by NYS CEF filing, ~~as well as AND email or~~ regular mail upon Petitioners attorney on or before April 30, 2024 shall be deemed good and sufficient service.

Proof of such service may be filed in the Clerk's Office of the Housing Part before the return date of this Order to Show Cause, or on the date of trial with the Clerk in the Part indicated above.

4/24/24
DATED: New York

Evon M. Asforis
JHC
HON. EVON M. ASFORIS

Dated: New York, New York

April __, 2024

ENTER:

Judge, Housing Part

*See prior page
for signature*

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**AFFIRMATION IN SUPPORT
OF ORDER TO SHOW CAUSE**

Petitioners

- against -

Jonathan Samet, Angel Colon, 617 West 141st Street Partners
LLC, US Realty Corp.

Respondents

New York City Department of Housing Preservation and
Development.

Co-Respondent.

JESSE GRIBBEN, an attorney admitted to practice in the State of New York, under
penalty of perjury, affirms as follows:

1. I make this affirmation in support of Petitioner’s motion for an order restoring Petitioners to
possession forthwith and for contempt and related relief with regards to Respondents
Jonathan Samet, Angel Colon, 617 West 141st Street Partners LLC and US Realty Corp.’s
(hereinafter “Respondents”) breach of the parties November 17, 2023 so-ordered stipulation.

The parties' so-ordered stipulation is annexed hereto as Exhibit "A"; see also NYS CEF Docket No. 19.

2. I am a member of the law firm, Himmelstein McConnell Gribben & Joseph, LLP attorneys for Petitioners. As such I am fully familiar with the facts and circumstances of this proceeding.

SALIENT FACTS AND PROCEDURAL HISTORY

3. Petitioner's commenced this Housing Part proceeding brought pursuant to New York City Civil Code Act section 110 (a) and section 27-2115 of the New York City Administrative Code to compel owners and landlord of the subject to correct certain hazardous conditions and violations which existed at the subject premises.
4. More specifically, there was a fire in December, 2022 which resulted in a full vacate order being issued and all tenants in the subject building temporarily and involuntarily displaced from their homes.
5. Petitioners are rent stabilized tenants.
6. Petitioners have been involuntarily displaced from their homes, causing extreme hardship.
7. Petitioners' involuntary displacement has now spanned sixteen months and counting.
8. Pursuant to a November 17, 2023 so-ordered stipulation Petitioners were to be restored to occupancy on or before March 30, 2023. Exhibit "A".
9. Recently, members of the building's Tenants' Association, as per the November 17, 2023 stipulation, were provided access to conduct a walk-thru and inspection.
10. While work is ongoing, to be blunt, Petitioner is not close to fulfilling its legal obligations. As things currently stand, it will be many months before the building is fully rehabilitated

and then who knows how long before HPD and DOB schedule and conduct inspections to ultimately lift the full building-wide vacate order.

11. For the avoidance of doubt, this is not a scenario where Petitioner has substantially complied with the parties' agreement. It is not as if the building is essentially ready for occupancy but there are some final or punch list items to be performed. Certainly, this is not a scenario whereby any delay can be attributed to DOB or HPD.

ARGUMENT

12. The refusal of Respondent to obey and or comply with the parties' stipulation was calculated to and actually did defeat, impair, impede and prejudice Petitioners' rights.

13. At the outset, Petitioners have now been involuntarily displaced from their long-term homes for sixteen months and counting.

14. We are now weeks past the March 30, 2024 deadline for Petitioners to be restored to occupancy.

15. Judiciary Law §753, pertaining to civil contempt, states that: [A] court of record has power to punish, by fine and imprisonment, or either, a neglect or violation of duty, or other misconduct, by which a right or remedy of a party to a civil action or special proceeding, pending in the court may be defeated, impaired, impeded, or prejudiced in any of the following cases:...(3) a party to the action or special proceeding, [or] an attorney...for any...disobedience to a lawful mandate of the court.

16. Judiciary Law § 770, also pertaining to civil contempt, reads in pertinent part as follows: Upon the return of an application to punish for contempt...the court shall inform the offender that he or she has the right to assistance of counsel and when it appears that the offender is financially unable to obtain counsel, the court may in its discretion assign counsel to

represent him or her. If it is determined that the accused has committed the offense charged; that it was calculated to, or actually did defeat, impair, impede or prejudice the rights or remedies of a party to an action or special proceeding...the court...must make a final order directing that he or she be punished by fine or imprisonment, or both as the nature of the case requires.

- 17. Judiciary Law § 773 pertains to the fine in cases of civil contempt. It provides in pertinent part as follows: If an actual loss or injury has been caused to a party to an action or special proceeding, by reason of the misconduct proved against the offender.....a fine sufficient to indemnify the aggrieved party, must be imposed upon the offender and collected, and paid over to the aggrieved party, under the direction of the court....Where it is not shown that such an actual loss of injury has been caused, a fine may be imposed not exceeding the amount of the complainant’s costs and expenses, and two hundred and fifty dollars in addition thereto, and must be collected and paid in like manner.
- 18. Counsel fees are part of the costs and expenses an aggrieved party can recover in a contempt proceeding, *3855 Broadway Laundromat v. 600 West 161st Street Corp.*, 156 AD2d 202, 548 NYS2d 461 (1st Dep’t 1989).
- 19. As detailed in their accompanying affidavits, Petitioners have been economically and emotionally harmed as a result of their displacement. They continue to be further harmed every day Respondent continues to be in breach of the parties’ agreement.

WHEREFORE, it is respectfully requested that Petitioners' motion be granted in its entirety and that this Court grant such other and further relief it deems just and proper.

Dated: New York, New York

April 19, 2024

Yours, etc.,

Jesse Gribben

HIMMELSTEIN MCCONNELL GRIBBEN
& JOSEPH LLP

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