

CIVIL COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK PART S

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IN THE MATTER OF:

GREGORY SCOTT,

	Petitioner,	Index No.:
Vs.		LT-301175-20/NY

KOSOVA PROPERTIES, INC., HAMDI NEZAJ, FATOS NEZAJ,
SHPEND NEZAJ, ANTON SHABAJ, AGUSTIN SHABAJ, AND
DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT,

Respondents.

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DATE: February 8, 2022

HELD AT: 111 Centre Street
New York, NY 10013
Virtual Proceeding - Trial

BEFORE: HONORABLE JEAN T. SCHNEIDER,
Judge

APPEARANCES: JENNIFER ROZEN, ESQ.
Attorney for Gregory Scott

CARLOS PEREZ-HALL, ESQ.
Attorney for the Respondents

ALSO PRESENT: GREGORY SCOTT

DIGITALLY RECORDED PROCEEDING, TRANSCRIBED BY:
JULIE DAVIDS
UBIQUUS

1 THE COURT: Good morning, folks. I'm sorry to
2 have held you up. I had trouble getting in this morning,
3 ironically. Who are we awaiting here?

4 MS. JENNIFER ROZEN: I don't actually see
5 everybody on the screen. I don't know if that's because
6 they're missing? Let's see.

7 THE COURT: No, everybody is not on the screen.
8 Ms. Rozen, you are here and Gregory Scott is here, and
9 that's all.

10 MS. ROZEN: So Mr. Perez-Hall sent me a text; I
11 know that he was in the waiting room.

12 THE COURT: He is not in the waiting room.

13 MS. ROZEN: Oh.

14 THE COURT: Could you text him back that he
15 should sign out and try to sign on again?

16 MS. ROZEN: Sure.

17 THE COURT: It's clear that this account is not
18 working for some reason this morning. Oh, there's Mr.
19 Cohen (phonetic). Zachary Cohen is here. Good morning,
20 Mr. Cohen, are you here?

21 MR. CARLOS PEREZ-HALL: Hi, Judge. So we were
22 on the other link, so we're going to log off this, because
23 we're using Mr. Cohen's phone, and then we're going to log
24 in on the other one.

25 THE COURT: Okay.

1 MR. PEREZ-HALL: Thank you.

2 MS. ROZEN: So much for technology making things
3 more efficient, huh.

4 THE COURT: Some days. Some days it does.

5 MS. ROZEN: Some days it sure does. Who are we
6 kidding? If we were in the courtroom, people would be
7 running back and forth and we would have waited this long,
8 I imagine.

9 THE COURT: That's true.

10 MS. ROZEN: I do miss having trials in person,
11 though. I miss seeing people.

12 THE COURT: I am, as you know, new to the trial
13 part and I haven't been in a trial part during COVID.
14 I've been in resolution --

15 MS. ROZEN: -- Really.

16 THE COURT: -- for two years. So new to me. I
17 mean, obviously trials are not new to me, I did trials for
18 years. But COVID trials? Yeah.

19 MS. ROZEN: They're interesting. COVID trials
20 via Microsoft Teams is interesting. I've only done a
21 couple, but they've gone pretty well.

22 THE COURT: Okay.

23 MR. PEREZ-HALL: All right, can you hear us?

24 THE COURT: Yes, absolutely.

25 MR. PEREZ-HALL: Great.

1 THE COURT: So who else do we need for this
2 case? Who are we missing?

3 MS. ROZEN: I don't think we're missing anyone
4 at this point.

5 THE COURT: Okay.

6 MR. PEREZ-HALL: Yeah.

7 THE COURT: So what I would like to do this
8 morning is this. I would like to start with Ms. Rozen for
9 kind of a thumbnail sketch of what your client's factual
10 claims are in the case. I've read the petition, but
11 factual claims, and I'm not really looking for an advocacy
12 piece here, I'm looking for a summary of what's at stake
13 here. And if there are things about the procedural
14 history that you think I need to understand right now, you
15 can tell me those, and then what is the relief that you
16 think is critical for your client to have at this point.
17 And I'll be looking for the same presentation on behalf of
18 the Respondents --

19 MR. PEREZ-HALL: -- Yes, Your Honor.

20 THE COURT: -- after Ms. Rozen is done.

21 MS. ROZEN: Okay, so this is an HP action for
22 harassment. My client is a rent stabilized tenant who has
23 occupied the apartment for many years. There is a long
24 history of contentious behavior here and harassment by the
25 landlord. The landlord has oftentimes provided

1 misinformation about the law, has refused to make repairs
2 that were required by the Housing Maintenance Code, has
3 refused to provide keys for lawful occupants of the
4 apartment. There's been some allegations of assault.
5 There's been generally a hostile behavior, death threats.
6 I mean, there is a whole laundry list of items here. You
7 know the way I practice, Mr. Perez-Hall also. We get
8 along fairly well. We've tried to talk about resolving
9 this case. I don't think that this is one that is going
10 to be easily resolvable. I think my client is entitled to
11 damages based on some of the egregious behavior by the
12 landlord, and I do think that he is entitled to an order
13 restraining the landlord from future acts of harassment
14 toward him, his occupants --

15 THE COURT: Isn't a -- is a restraining order
16 something permitted by the harassment statute?

17 MS. ROZEN: Yes.

18 THE COURT: Okay.

19 MS. ROZEN: And damages, and obviously --

20 THE COURT: -- And the penalty, I know, is a
21 penalty payable to the City, and you're seeking legal fees
22 as well, and we'll talk about that in a moment.

23 MS. ROZEN: -- [inaudible] damages. I mean,
24 there have been, yes.

25 THE COURT: Mr. Perez-Hall, what should I know

1 about the Respondents' side of the case here and what
2 Respondents believe should happen in the case?

3 MR. PEREZ-HALL: The Respondents categorically
4 deny those allegations. Procedurally speaking, I'll just
5 fill in also, because that is an issue that I will come up
6 with some evidence, and I think that Ms. Rozen and I also
7 want to speak to you about some of the things that we
8 would like to do still before we initiate trial to try and
9 organize this trial for Your Honor, to be a more effective
10 trial, but I'll get to that later, since you asked me --

11 THE COURT: -- Yeah, please.

12 MR. PEREZ-HALL: -- a question. And there are
13 three Supreme Court cases, one for a personal injury, one
14 for false arrest, and one that kind of is a combination of
15 those two. Those are being handled by other attorneys in
16 Supreme Court. They were filed before this proceeding and
17 they are the sum and substance, or they overlap with some
18 of the harassment claims here. So that is something for
19 Your Honor to consider because it will get into how far
20 down the rabbit hole we go with some of the evidence that
21 needs to be submitted because my client's concern and my
22 concern also is that we don't want to allow this Court to
23 adjudicate or opine on issues of fact that are going to be
24 the direct same issues of fact that are going to be used
25 for personal injury cases and also --

1 THE COURT: -- Why would that be? If I need to
2 reach a particular issue of fact and it's relevant to the
3 cause of action before me, why wouldn't I be able to find
4 a fact?

5 MR. PEREZ-HALL: I would suggest to Your Honor
6 that knowing what the -- the summons complaints for both
7 those cases and the answers tell you exactly the positions
8 of the parties. That is enough to establish or rebut a
9 claim of harassment. In terms of the actual order of
10 events, I think there are some things that Ms. Rozen and I
11 could stipulate to. For instance, there was an
12 altercation, for instance, between both parties. Do we
13 need to get into what was first, what was second? The end
14 result is the end result. I think that can be handled in
15 a separate proceeding without there being any effect on a
16 harassment claim. Again, harassment claim, it's a
17 rebuttal presumption at the end of the day, they have to
18 state a cause of action, and I in essence have to disprove
19 that. That's the way that the law --

20 THE COURT: -- Let me put it this way. I'm a
21 skeptic when it comes to lots of sort of more routine
22 harassment cases. But if the allegations in Ms. Rozen's
23 petition are true, this is a pretty classic case of really
24 truly harassment. Now I realize that your clients'
25 position is that they are not true, but I don't -- and I

1 know that you've attempted to get the case dismissed
2 unsuccessfully. So I am assuming that we're going to have
3 a trial at which I will be asked to determine whether
4 harassment has occurred.

5 MR. PEREZ-HALL: Absolutely.

6 THE COURT: And unless you can tell me that a
7 particular factual claim is not relevant to a claim of
8 harassment, I'm going to hear it.

9 MR. PEREZ-HALL: Your Honor can -- I'm making an
10 argument, Your Honor will decide, and I will object, and
11 the record will be the record. So I'm -- you're asking me
12 --

13 THE COURT: -- I'm not actually in this exercise
14 looking for advocacy, as I said. I'm looking to
15 understand the claims and your plans.

16 MR. PEREZ-HALL: So there are no violations on
17 the building. There are three that still remain, there
18 are 3A violations, but it's a 36-unit building. There are
19 no repairs. That's not actually part of the petition to
20 the extent that they're seeking harassment because
21 violations were not properly removed. I think that is
22 something for -- so that is a defense of ours also in
23 terms of some of the allegations that are occurring, and
24 we will have third party witnesses appear, approximately
25 five, and I can divulge the names of those witnesses.

1 I'll give an email, or I can say it right now. But we
2 have five neighbors in the building who will testify on
3 behalf of the landlord as to the conduct of the Petitioner
4 and the relationship that they've had with the landlord
5 over many years. All in the positive.

6 THE COURT: Okay.

7 MR. PEREZ-HALL: So that is in sum and
8 substance, again we are categorically denying those
9 allegations as they occur in terms of do they rise to the
10 level of harassment, are they harassment, did things
11 actually occur that would be that. And I can explain
12 later on during conclusion how the facts all fit together
13 and our theory of the case.

14 THE COURT: Okay. So Ms. Rozen, the -- I don't
15 have any illusions about my ability to settle a case that
16 neither Judge Ortiz nor Judge Chinae have been able to
17 make much inroads on. Let us suppose for the moment that
18 the Respondents were prepared to agree to injunctive
19 relief without admitting that anything horrible happened
20 in the past, to pay \$5,000 to the City of New York, again
21 without admitting that they're required to do it, and to
22 negotiate an amount of legal fees. Would you then settle
23 the case?

24 MS. ROZEN: I mean, I'd have to speak to my
25 client about it.

1 THE COURT: Obviously.

2 MS. ROZEN: I see that he's shaking his head.
3 Can we take five so that I can give him a call?

4 THE COURT: Sure.

5 MS. ROZEN: All right.

6 THE COURT: Mr. Scott, you should put yourself
7 on mute so that you can speak to your attorney privately.
8 She's calling you.

9 MR. GREGORY SCOTT: Thank you. Thank you, Your
10 Honor.

11 [OFF THE RECORD, 10:00:50 a.m.]

12 [ON THE RECORD, 10:13:35 a.m.]

13 MS. ROZEN: Your Honor, I just want to let you
14 know that we're all back.

15 THE COURT: Great. Okay. And what do you have
16 to report?

17 MS. ROZEN: So, I mean, we did make some
18 headway. I didn't think this was a case that could be
19 settled at all, but essentially my client would go with
20 your recommendation of \$5,000 to the City with an
21 injunction [inaudible] from future acts of harassment, and
22 a payment of his legal fees. I mean, we all know that
23 that's usually the sticking point in these cases and it's
24 --

25 THE COURT: -- Yes, I -- that was my

1 anticipation, which was why I phrased it the way I did and
2 tried -- and in the first instance stayed away from what
3 the amount of legal fees would be.

4 MS. ROZEN: Yeah. It may be helpful if I made a
5 quick phone call to the Respondents' attorney just to see
6 if this is even remotely on the table, and if not, then
7 perhaps we can figure out a plan going forward. We are
8 close to stipulating most of the exhibits into evidence,
9 but there are a lot of outstanding issues that we wanted
10 to try to hammer out today if we can't settle it so that
11 we can potentially start -- I mean, assuming your schedule
12 is clear. I know that you just sort of inherited this
13 case from Judge Chinae, but we are scheduled today,
14 tomorrow and Thursday.

15 THE COURT: Understood.

16 MS. ROZEN: And our request was that we take
17 today to hammer out everything that needs to be hammered
18 out, including the stipulation of admissibility in the
19 exhibits, and that we begin tomorrow, if that works with
20 your schedule.

21 THE COURT: Okay. So by all means have a
22 telephone conversation with Mr. Perez-Hall and --

23 MS. ROZEN: -- Okay. We'll do that.

24 THE COURT: -- what there is out there. Thank
25 you.

1 MS. ROZEN: Thank you.

2 THE COURT: For those of you who just joined, we
3 are in a pause while the two attorneys talk to each other
4 offline and we'll resume in a few minutes.

5 [OFF THE RECORD, 10:15:29 a.m.]

6 [ON THE RECORD, 10:29:48 a.m.]

7 MS. ROZEN: And we're back once again.

8 THE COURT: Okay.

9 MS. ROZEN: After much back and forth.
10 Unfortunately, it doesn't look like it's going to happen.
11 We did give a valiant effort.

12 THE COURT: All right. Mr. Perez-Hall, do you
13 want to give me some input here?

14 MR. PEREZ-HALL: We are -- we were in agreement
15 with most of the terms. It comes down, ultimately, to the
16 legal fees. That's a hard one. And I came up with a
17 creative idea that I don't think either party liked,
18 unfortunately, even though maybe the attorneys did. So I
19 think that's where we are at the end of the day,
20 unfortunately. We would agree to certain portions in
21 terms of -- we would agree not to admit anything and he
22 wouldn't admit anything either, and we would agree that we
23 would refrain from harassment, he would agree to refrain
24 from harassing any of the tenants that claim that he is
25 harassing them that we have a list of, and we'd have a

1 nondisclosure agreement, and then we could give -- and
2 then the money part is where it really fell apart. So
3 there was a way [inaudible] and deal with that at a later
4 point in time --

5 THE COURT: -- The money part is not just legal
6 fees, the money part is also payment of the fine?

7 MS. ROZEN: Yeah, [inaudible].

8 MR. PEREZ-HALL: And ultimately an issue.
9 [inaudible] I have to be [inaudible]

10 THE COURT: If what we were disagreeing about
11 was legal fees alone, I would spend some more time trying
12 to come to an agreement on legal fees. But if there are
13 other issues as well, then I think that -- my sense after
14 reviewing the file is that the position of the Petitioner
15 here is pretty hardened and if there can't be an agreement
16 to an injunction with that -- I would not expect the
17 Respondents to admit anything and I think everybody
18 understands that that's not something that's going to
19 happen. And if the Respondents were willing to agree to
20 injunctive relief without an admission and then I suppose
21 that would mean that any factual disputes would wind up
22 getting resolved in the Supreme Court when those cases are
23 reached. The danger, of course, for the Respondents is
24 that I make factual findings in this case which wind up
25 having collateral estoppel effect in the Supreme Court.

1 And I thought that perhaps this moment with that obviously
2 on the Respondents' mind, might give us space for
3 resolution.

4 MR. PEREZ-HALL: Right.

5 THE COURT: That was --

6 MR. PEREZ-HALL: -- I'm not --

7 THE COURT: -- That was, quite frankly, my
8 thought, so --

9 MR. PEREZ-HALL: -- Mine as well.

10 THE COURT: -- but it sounds as though there are
11 other things like non-disclosure agreements and other
12 sorts of stuff that's going to wind up making something of
13 a mess, and if there's not going to be payment of a fine
14 and if there is a hard position on legal fees, then I
15 don't see how we get out of it. I mean, I hate cases that
16 settle on everything else but not on fees, but I don't see
17 that we've settled on everything else yet.

18 MR. PEREZ-HALL: I kind of thought maybe we were
19 very close to doing that, but the legal fees issue, unless
20 I'm wrong, Ms. Rozen. I don't know the conversation, but
21 --

22 MS. ROZEN: -- [inaudible].

23 MR. PEREZ-HALL: You broke up. I couldn't hear
24 you.

25 MS. ROZEN: You said that your client was a hard

1 no on the payment of the fine, so that's two big things
2 that --

3 MR. PEREZ-HALL: -- No, not necessarily, no.
4 That is open for discussion.

5 THE COURT: So is legal fees something that we
6 can figure out?

7 MS. ROZEN: I think -- counsel froze. There we
8 go.

9 THE COURT: Is -- Mr. Perez-Hall, is payment of
10 some fees something we can discuss? And I'm using "some"
11 advisedly. I mean, I really mean literally between a
12 hundred dollars and a million dollars.

13 MR. PEREZ-HALL: I think that it -- I could have
14 a conversation about and maybe in lieu of calling it a
15 fine, but directing that fine as we do sometimes in HPD
16 cases where it's just civil penalties, but sometimes the
17 Court [inaudible] that money and we apply towards an
18 abatement. The same kind of concept maybe could work as
19 an advance and then demure at the end of the day in terms
20 of the legal fees, and there's ways to deal with that.
21 That's something I would discuss with my client but I
22 couldn't even get there because we were just too far
23 apart, I thought, on what the context of legal fees would
24 be. And I don't know if Your Honor was open to that
25 either, so I wanted -- I had to wait for your input on

1 that as well. Because that has to obviously be okay with
2 you.

3 THE COURT: So let me wade into the fee issue a
4 little bit. The -- Ms. Rozen, tell me a little bit about
5 what your legal fee claim is, just so I know where to
6 start the conversation.

7 MS. ROZEN: It's at about 28,000 right now. The
8 motion practice and extensive trial prep, so --

9 MR. PEREZ-HALL: And same here.

10 THE COURT: Well, speaking of motion practice, I
11 see that there was a motion to quash a subpoena and I
12 don't see a decision on that motion on NYSCEF. Is that an
13 open issue?

14 MR. PEREZ-HALL: There was a -- yes, but --
15 technically yes, but in substance, no. There was -- the
16 judge suggested the terms of settlement and that we all
17 agreed, so it was kind of like Supreme Court has settled
18 the order. I have to reduce it to writing and just agree
19 upon the reduction in writing mimicked what Judge Chinae
20 suggested.

21 THE COURT: -- So that issue was resolved but
22 the resolution was not committed to writing?

23 MR. PEREZ-HALL: Correct, because we have been
24 going over, I don't know, an average at 150 plus documents
25 from the Petitioner's side, and maybe 200, Zach tells me,

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1 and some of this stuff because of technology, not saying
2 it wasn't given, but it didn't make it to us, so we've
3 gone through a couple rounds of going through what we
4 still need, what we don't have. There's just been a lot
5 of work, given COVID, given the change in all the laws and
6 everything going on that we haven't been able to quite
7 resolve everything yet. So that to me, since we had a
8 settled order, was the least important, quite honestly on
9 my mind, even though it was my motion, and I conveyed that
10 to counsel, and I think that was an understanding. But we
11 did try to reach out to the Court a week in advance to try
12 and go through some of these logistical issues just to
13 make sure that we were comporting with the rules, and we
14 didn't get a response back. I assume we didn't because
15 there was a change in term and a new judge and that makes
16 more sense now. So that's part of the reason we were
17 requesting today to clean up the remainder or maybe into
18 the morning tomorrow if necessary if we do go forward.

19 THE COURT: Okay. So tell me about the
20 Respondents' position on legal fees. I hear Ms. Rozen
21 saying that she is -- in terms of her time records, she is
22 at about 28,000. So assume that that's --

23 MR. PEREZ-HALL: -- I can't imagine --

24 THE COURT: -- only a starting place. Are you
25 at zero and firm or are you in a position to talk?

1 MR. PEREZ-HALL: Who are you speaking to, me?

2 THE COURT: Yes, yes, yes.

3 MR. PEREZ-HALL: Okay. Again, my creative
4 thought was that we have three other Supreme Court cases
5 with counsel and they are -- again, we mentioned
6 collateral estoppel -- part of this case or possibly the
7 majority factor of this case, and so my creative idea was
8 to demure and do a stipulation whereby depending on what
9 the prevailing parties were in those cases, possibly then
10 we attach the legal fees, capping it today for both
11 parties, and live to fight another day through those
12 cases, since they are essentially very similar but for the
13 cause of action, and obviously that's a technicality that
14 has merit and legal, but in essence there is a huge
15 overlap. And again, my idea was, subject to Your Honor,
16 there could be an amount we could give that would be
17 between a dollar and 5,000, maybe towards an advance to
18 that, and in lieu of the HPD fine, if that was something
19 that made this work, my client initially had said no, Ms.
20 Rozen's client said no, but I haven't been able to -- so
21 that's where we -- and that's when we came back on.

22 THE COURT: Okay, so Ms. Rozen, what if we had a
23 payment of \$15,000 to your client, call it whatever you
24 want, but it resolves legal fees, it resolves civil
25 penalties, it resolves everything, write a check for

1 \$15,000. I'm not suggesting, Mr. Perez-Hall, that you've
2 offered that, I'm simply trying to sort of find where the
3 space might be.

4 MR. PEREZ-HALL: I understand.

5 MS. ROZEN: Well, I'm reading my client's body
6 language. He seems to be indicating that that wouldn't do
7 it.

8 THE COURT: He's -- he doesn't look happy with
9 it. Okay.

10 MS. ROZEN: [inaudible] \$10,000 out of pocket
11 and would have reached no benefit from this.

12 THE COURT: Right, I got it. So I'm troubled by
13 the prospect of having a battle royale in this case, and
14 that's what a trial has to be described as here, because
15 it's going to be multiple witnesses for each side. I'm
16 troubled by the idea of doing that and spending -- having
17 both parties spend a tremendous amount of money on the
18 trial, at the end of which there are significant downsides
19 on both sides, and the downsides become -- or are more
20 significant than just the amount of money it costs to do a
21 trial. The downsides include what the implications are
22 for the Supreme Court litigation. And I am troubled by
23 the fact that there do not appear to be essentially any
24 current disputes between these two parties in terms of
25 things that the Petitioner here needs the Respondent here

1 to do, and that instead what we have is -- and believe me,
2 I understand this. I am not trying to diminish the
3 importance of it. What we have is a battle that is about
4 the past relationship. We have -- I want to call it a
5 grudge match, except that sounds demeaning to the
6 importance of what it feels like to have the sense of
7 having been treated badly over a long period of time. The
8 harassment statute, on the other hand, permits that in a
9 sense it invites it. It invites the imposition of
10 penalties for past behavior. I suppose on the theory
11 policy-wise that if you're punished for bad behavior,
12 perhaps you will modify behavior in the future, and that's
13 something that Mr. Scott is entitled to have to put before
14 a judge and to get a decision on. I would prefer to see
15 the case resolved with an enforceable order of some kind
16 that gives Mr. Scott some assurance that if there should
17 be a recurrence of the behaviors here, that he has an
18 easier remedy than this one has been. I know that there
19 is a very --

20 MR. PEREZ-HALL: -- Your Honor --

21 THE COURT: -- there is a very long history of
22 litigation here and it has been mostly resolved in favor
23 of the petitioner here. So he's got the right to go
24 forward. I would very much prefer to find a dollar amount
25 - a significant dollar amount that could be paid to him

1 that could give him a sense that he got someone's
2 attention and an enforceable order. So that does not
3 appear to be a possibility at this point because what I
4 consider to be a significant payment, Mr. Scott doesn't,
5 and Petitioner doesn't want to agree to any payments. So
6 it's not that anybody is blowing it up, it's just that it
7 doesn't appear to be possible. Yes, Mr. Perez-Hall.

8 MR. PEREZ-HALL: I just -- it would come out
9 anyway, and I don't think it's a secret, but I do believe
10 at this point there is a very low likelihood of future
11 conduct occurring because I don't believe that currently -
12 - Ms. Rozen, do you know where I'm going? Are you okay
13 with where I'm going here?

14 MS. ROZEN: Right now my client is lawfully
15 subletting his apartment, so he's temporarily away. I
16 think that's where you were going, right?

17 MR. PEREZ-HALL: Yes.

18 MS. ROZEN: But he is going to return, so the
19 future conduct is --

20 MR. PEREZ-HALL: Understood.

21 MS. ROZEN: You keep freezing. We need to get
22 you some better internet over there at Borah Goldstein.

23 MR. PEREZ-HALL: Yeah, I understand. Yes,
24 that's where I was going and -- yes.

25 THE COURT: No, I'm sorry, your point about the

1 sublet is what, Mr. Perez-Hall?

2 MR. PEREZ-HALL: That the likelihood of anything
3 currently occurring between the two parties is thin
4 because the Petitioner is not living there currently.

5 THE COURT: Well, it may well be that the
6 Petitioner feels that if this case isn't there or if this
7 case doesn't have what he considers a positive result,
8 that the Respondents will begin harassing his subtenant
9 and will make a mess of that. So and I understand why he
10 would think that.

11 MR. PEREZ-HALL: I understand. I understand
12 that. I'm just saying that can be resolved by the terms
13 of the stipulation of settlement, that's all.

14 THE COURT: Okay. I'm not hearing anything
15 further to talk about. If the two of you have an
16 opportunity to talk about it later in the day, I would
17 think it would be useful. But I really do think I'm --
18 while I understand the reasons that an agreement is not
19 happening here, I think it is a bad decision for both
20 sides, I really do. I think that Mr. Scott gets very
21 little from winning, if I could just be blunt about it. I
22 don't think that you get very much from winning a
23 harassment trial, I really don't. And so I think figuring
24 out what you can get out of the settlement may be a better
25 bet. I just -- if you win, it's like okay, so you won, so

1 what happened? You get an injunction and some thousands
2 of dollars paid to the City and it just doesn't go much of
3 anywhere. I'm not saying that's right, I'm just saying
4 that appears to be the case to me in my observation of
5 harassment litigation. But sometimes it's about making a
6 point, and if that's where it is for you, then you can
7 take your shot. You are going to spend a great deal of
8 additional money on a trial, just so everybody is clear
9 about that. And I don't think you should count on what
10 happens with attorneys' fees in the case. I think the
11 same thing about the Respondents' position here. The
12 Respondents feel held up, the Respondents feel that there
13 is a whole lot of litigation in a whole lot of different
14 places and I would just suggest that so far the whole lot
15 of litigation hasn't gone all that well for the
16 Respondents, and being able to wrap up one thing without
17 too much pain might be a sensible solution to this one.
18 The rest of it is more or less done until the Supreme
19 Court gets going, but that's kind of a long-term problem.
20 So that's kind of where I am and that's what I am going to
21 say about it, and I'm done talking about settlement,
22 although I would encourage Ms. Rozen and Mr. Perez-Hall to
23 spend part of the rest of the day to continue that
24 conversation. And please feel free, I don't have a full
25 day here because the day was mostly set aside for you

1 guys, so if you need -- if you want to come back on for
2 some further discussion, that is potentially available and
3 you can get in touch by email and we can do that. So what
4 are the things that we need to clear away in terms of
5 being ready for the trial?

6 MS. ROZEN: We need to finalize the exhibits.
7 We've provided ours; apparently there's some issue with
8 the link, so I think that Mr. Perez-Hall and I need to
9 just hop on a call and make sure that he has everything
10 that I have in my folder. And our plan was to do a
11 stipulation of admissibility, basically agreeing to the
12 admissibility of most of the documents. So --

13 THE COURT: The documents at the moment are in
14 Google Docs, is that correct?

15 MS. ROZEN: I submitted them to the Court,
16 actually to Judge Chinae via a Google Drive, so they're
17 all organized [inaudible] --

18 THE COURT: -- All right. Okay. I don't -- I -
19 -

20 MS. ROZEN: -- I can send them to you, too.

21 THE COURT: -- have not used that mechanism
22 previously for exhibits and I am not sure exactly how to
23 manage it. I have in the past had exhibits uploaded onto
24 NYSCEF, but if you guys [inaudible] that --

25 MS. ROZEN: -- So the problem with that --

1 THE COURT: -- the Google Drive system works
2 better, I will try to learn it between now and tomorrow.

3 MS. ROZEN: I mean, it's pretty easy, you just
4 click on --

5 THE COURT: -- And my issue is that I don't have
6 a Google account that I am prepared to share with you
7 guys, so I would need to create one.

8 MS. ROZEN: -- I don't think you do. I don't
9 think you need it. Why don't I try to send it to you and
10 if you can't open it, I will have my paralegal run over a
11 flash drive for you. The problem with uploading to NYSCEF
12 is that there's a lot of videos and audio and I don't
13 think --

14 THE COURT: -- Yeah, and that won't work, you're
15 right. Okay. So I'll see if I can open it. And so you
16 have sent all of yours, and Mr. Perez-Hall, you have not?

17 MR. PEREZ-HALL: No, I have sent our exhibits,
18 albeit yesterday, just trying to organize everything. I
19 have not sent the tenant file which I have that was
20 subpoenaed, so I will be giving that. But in terms our --
21 Respondents' trial exhibit lists, we provided that. We
22 have the objections and the admissions, so that has been
23 completed and I did give that to the Court in both the
24 parts, links, and the Court Attorneys and Judge China as
25 well. If you need me to resend that to Your Honor, I can

1 do that directly to Your Honor. It's three emails. Old
2 school. We didn't do anything new tech.

3 THE COURT: Okay, so can the two of you produce
4 a stipulation to the admissibility of documents?

5 MS. ROZEN: That's what we wanted --

6 MR. PEREZ-HALL: -- Some, yes.

7 MS. ROZEN: -- to work out today.

8 THE COURT: Okay. And --

9 MR. PEREZ-HALL: -- And then I --

10 THE COURT: -- what about witness lists? Have
11 we exchanged witness lists?

12 MR. PEREZ-HALL: Partial.

13 MS. ROZEN: -- I've [inaudible] mine. I don't
14 have Respondents' just yet.

15 THE COURT: Okay.

16 MR. PEREZ-HALL: I have it. I can give it.

17 THE COURT: So Mr. Perez-Hall, the -- Judge
18 China's part rules require that the witness list and the
19 documents be exchanged several days, I can't remember the
20 number of days now, but it's not day of trial, which is
21 today. So you are behind the eight ball here, and if Ms.
22 Rozen wants not to go forward until she has had her
23 allotted number of days, I'm okay with that and I have --

24 MR. PEREZ-HALL: -- And I am --

25 THE COURT: -- I do not have a crowded trial

1 calendar yet, so it doesn't mean going out three months,
2 it's --

3 MR. PEREZ-HALL: -- Understood. That was one of
4 the things that --

5 THE COURT: -- We really need to get that done
6 and we need to get it done today.

7 MR. PEREZ-HALL: Yes, there's 15 exhibits that
8 are missing from us. There is about -- we have this drive
9 set for her to go through which are -- I'll let her see
10 that. I can give her -- I could have given it this
11 morning, but we got involved with this process --

12 THE COURT: -- Yep.

13 MR. PEREZ-HALL: -- so I have the exhibit and
14 witness list substantially all done. If we had a day or
15 two more -- and without getting into it, we had some COVID
16 issues last week, we had some personal issues, so things
17 got messed up. It was supposed to be done on Friday and I
18 had promised it would, and it got done substantially on
19 Monday. So I apologize, to the extent that I haven't been
20 able to get everything that I need to get in on time. But
21 if Ms. Rozen needs time, I would not object to that. I've
22 discussed that with her.

23 THE COURT: Well, Ms. Rozen doesn't know if she
24 needs time until she has everything, so --

25 MR. PEREZ-HALL: Right.

1 MS. ROZEN: -- We may -- since the day is half
2 over at this point, I do have child care issues tonight so
3 I can't spend all night doing this, maybe it's wise to
4 start on Thursday morning, just so I have a chance to go
5 through the thumb drive, we can exchange witness lists.
6 But if you could get that to me today I would really
7 appreciate it.

8 MR. PEREZ-HALL: I will get everything to you
9 today [inaudible] --

10 THE COURT: -- I'm okay with starting Thursday
11 if that's what works for you guys.

12 MS. ROZEN: That would be great. Thank you.

13 MR. PEREZ-HALL: Yep, that will be fine. Thank
14 you, Your Honor.

15 THE COURT: And I will look to have complete
16 witness lists and complete documents and a stipulation to
17 everything you can stipulate to by -- I'd like to have it
18 by the end of the day today, but let's say by noon
19 tomorrow.

20 MR. PEREZ-HALL: Yes, Your Honor.

21 MS. ROZEN: Okay.

22 THE COURT: Does that work?

23 MR. PEREZ-HALL: I'll --

24 MS. ROZEN: Absolutely.

25 MR. PEREZ-HALL: Your Honor, I have one

1 question, and this is a preference for Your Honor, and I
2 will confess that I -- with this new world and everything
3 going on with this case and the amount of documents, it's
4 up to you, but I had a thought and I discussed with Ms.
5 Rozen and she I think agrees with me, but I won't speak
6 for her. If there is a category of documents that I'm
7 going to be objecting to every single one that's going to
8 introduced and the issues -- do you want to have a
9 pretrial evidentiary hearing just to go through the
10 categories? Because they may be sum and substance the
11 same objection for each one and maybe we can resolve that
12 ahead of time and that expedites things. But that is your
13 call, obviously, and Ms. Rozen as well.

14 THE COURT: -- Given that we're going to have a
15 substantial number of stipulated documents, I would begin
16 our trial but admitting all of the stipulated documents so
17 that we know what we've got. And if you want the second
18 order of business to be to review the unstipulated
19 documents, as long as we don't need witness testimony. I
20 don't want to pull out witness testimony in order to
21 decide whether documents come in or not. But if there are
22 relevance issues or other things that can be resolved with
23 the --

24 MR. PEREZ-HALL: -- Exactly.

25 THE COURT: -- argument of counsel rather than

1 with witness testimony, I'm happy to go through and do a
2 ruling on clusters of documents, if that works for you
3 guys. That sounds sensible to me.

4 MR. PEREZ-HALL: That was my thought.

5 MS. ROZEN: Yeah, and you and I, Mr. Perez-Hall,
6 we can spend some time on the phone trying to get through
7 some of them --

8 MR. PEREZ-HALL: -- Yeah.

9 MS. ROZEN: -- and maybe we can email the Court
10 later on with an update as to whether we think it would be
11 productive to have a quick conference to try to resolve
12 the rest of the documents, videos, et cetera.

13 THE COURT: That's fine. And like I said, I'm
14 available the rest of the day today and I'm available not
15 all day tomorrow, but almost all day tomorrow, so --

16 MS. ROZEN: Okay. And just logistically I did
17 have one other question because there are so many videos
18 and audio clips. It could theoretically take weeks and
19 weeks to go through them, and I had this issue in front of
20 Judge Stoller recently during a virtual trial where the
21 parties did stipulate to almost all of the videos and
22 audio --

23 THE COURT: -- Yeah.

24 MS. ROZEN: -- so his preference was to not have
25 it played during trial --

1 THE COURT: -- Right.

2 MS. ROZEN: -- or not have everything played
3 during trial, and his preference was to review that as
4 part of the record on his own. Do you have a preference?

5 THE COURT: -- That is also my preference. It
6 will not surprise you that I have lots of experience
7 admitting video and it takes a very long time to play
8 video with everybody looking at it, and if there is an
9 agreement about what's coming in, I'm happier to review
10 the video afterwards. That's great. Okay, so we will get
11 off now and I will await further word and we will start
12 the trial Thursday morning.

13 MS. ROZEN: Excellent. Thank you so much for
14 your time.

15 THE COURT: Thank you.

16 MR. PEREZ-HALL: Thank you, Your Honor.

17 THE COURT: Thank you both.

18 MR. PEREZ-HALL: Be well, everyone.

19 (Proceeding Concluded.)

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C E R T I F I C A T E

I, Julie Davids, certify that the foregoing transcript of proceedings in the Civil Court of the State of New York, County of New York of Gregory Scott v. Kosova Properties, Inc., Hamdi Nezaj, Fatos Nezaj, Shpend Nezaj, Anton Shabaj, Agustin Shabaj, and Department of Housing Preservation and Development, Index #LT-301175-20/NY, was prepared using the required transcription equipment and is a true and accurate record of the proceedings.

Julie Davids

09/18/2023

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