

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. LOUIS L. NOCK

PART IAS MOTION 38EFM

Justice

-----X

11 ESSEX STREET CORP.,

INDEX NO. 110019/2004

MOTION DATE 05/22/2019

Plaintiff,

008, 009, 010,
011, 012, 013,
014, 015, 016,

- v -

MOTION SEQ. NO. 017, 018 019

7 ESSEX STREET LLC. C/O VESTA DEVELOPMENT
GROUP, DESIMONE CONSULTING ENGINEERS,
JEFFREY M. BROWN ASSOCIATES, INC. (THIRD PARTY
PLAINTIFF), BERZAK GOLD, P.C., BIG APPLE WRECKING
AND CONSTRUCTION CORP., CASINO DEVELOPMENT
GROUP, INC. (THIRD PARTY DEFENDANT), CASINO
DEVELOPMENT CORP. (THIRD PARTY DEFENDANT),
CASINO DEVELOPMENT CORP. F/K/A DANNA
CONSTRUCTION COMPANY (THIRD PARTY
DEFENDANT), WILLIAM CHARON (THIRD PARTY
DEFENDANT),

DECISION + ORDER ON
MOTION

Defendant.

-----X

Motion 008, 009, 010, 011, 012, 013, 014, 015, 016, 017, 018, and 019 are decided in accord
with the annexed transcript.

7/30/2019

DATE

[Handwritten Signature]
LOUIS L. NOCK, J.S.C.

CHECK ONE:

[] CASE DISPOSED

[X] NON-FINAL DISPOSITION

[] GRANTED

[] DENIED

[] GRANTED IN PART

[X] OTHER

APPLICATION:

[] SETTLE ORDER

[] SUBMIT ORDER

CHECK IF APPROPRIATE:

[] INCLUDES TRANSFER/REASSIGN

[] FIDUCIARY APPOINTMENT

[] REFERENCE

1 SUPREME COURT OF THE STATE OF NEW YORK
 COUNTY OF NEW YORK - CIVIL TERM - PART 38
 -----X
 2 11 ESSEX STREET CORP.,
 3
 Plaintiff,
 4
 -against- Index No. 110019/04
 5
 JEFFREY M. BROWN ASSOCIATES, INC.,
 6
 Defendant.
 -----X
 7 JEFFREY M. BROWN ASSOCIATES, INC.,
 8
 Third-Party Plaintiff,
 9
 -against-
 10
 DANNA CONSTRUCTION CORP., DANNA EQUIPMENT CORP.,
 11 and MICHAEL DANNA,
 Third-Party Defendants.
 -----X
 12
 111 Centre Street
 13 New York, New York
 July 9, 2019
 14
 B E F O R E: HONORABLE LOUIS L. NOCK
 15 Supreme Court Justice
 16
 A P P E A R A N C E S:
 17
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 24 BY: MICHAEL W. FREUDENBERG, ESQ.

1 A P P E A R A N C E S:

2

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Diane Kavanaugh, RPR
Senior Court Reporter

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Proceedings

1 THE COURT: Good morning, everyone.

2 We are back on the record. It is a pleasure for me
3 to have all counsel here again in the matter of 11 Essex
4 Street Corp. versus 7 Essex Street, LLC. The case bears
5 Index No. 110019 of 2004.

6 Ladies and gentlemen, thank you for being here.

7 We are all very familiar with this case. This is a
8 case that will be a jury trial. And this is now the second
9 pretrial conference in this matter. It is an important
10 conference, as all of them are. And I thank everybody for
11 participating.

12 The last time we were on the record together we
13 were talking about the receipt of papers on the parties'
14 respective motions in limine.

15 I want to thank everybody for very skilled, very
16 scholarly, excellent work product on all sides.

17 Thank you, ladies and gentlemen.

18 I have become intimately familiar with your
19 arguments and your positions because I have read every
20 single word and have researched every single authority that
21 you have proffered before me. And I appreciate your hard
22 work.

23 The purpose of today's conference, as I stated last
24 time we were together, was for me to issue my determinations

25

Proceedings

1 I am prepared to do so this morning.

2 So I would ask everyone to listen very carefully as
3 I go through my determinations. And then when we're
4 finished with that, we can talk about proceeding forward
5 with the case.

6 I am going to do this in the order of motion
7 sequence number. So we will begin with motion sequence 009
8 and conclude with motion sequence 019.

9 I will begin with motion sequence 009.

10 Motion sequence 009 consists of defendant Jeffrey
11 M. Brown's motion to preclude evidence that might contravene
12 the six determinations made in prior administrative and
13 court proceedings.

14 I will be referring to defendant Jeffrey M. Brown
15 going forward as JMB, as you all have, to make things
16 easier.

17 I would like to quote the six determinations that
18 were made during the prior administrative proceedings, the
19 Department of Buildings, the Board of Standards and Appeals,
20 and, of course, we all know there was an Article 78
21 proceeding that came after that. I would like to quote what
22 those six determinations were.

23 Here's what they were. I am reading from the
24 conclusion page of JMB's opposition papers, because it sets

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