

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

37 EAST 50th STREET CORPORATION,

Plaintiff,

-against-

RESTAURANT GROUP MANAGEMENT
SERVICES, L.L.C.,

Defendant.

Index No. 653067/2013

NOTICE OF ENTRY

PLEASE TAKE NOTICE that the attached is a true copy of the Order and Judgment (NYSCEF Doc. No. 678), entered and duly filed in the Office of the New York County Clerk on May 7, 2019.

Dated: New York, New York
May 7, 2019

PRYOR CASHMAN LLP

By: 

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To: Via NYSCEF
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Attorneys for Plaintiff

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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37 EAST 50th STREET CORPORATION,

Plaintiff,

v.

RESTAURANT GROUP MANAGEMENT
SERVICES, L.L.C.

Defendant.
-----X

Index No. 653067/2013

**PROPOSED ORDER AND
JUDGMENT**

The issues in the above-entitled action having duly come on for trial before the Honorable Barry R. Ostrager and a jury, at IAS Part 61, of this court, held at the courthouse thereof, located at 60 Centre Street, New York, New York 10007, beginning on October 25, 2018, and concluding on October 30, 2018, and the plaintiff 37 East 50th Street Corporation having appeared by its attorneys, Camarinos Law Group, and the defendant Restaurant Group Management Services, L.L.C., having appeared by its attorneys Pryor Cashman LLP, and the issues having been duly tried, witnesses having duly testified and evidence having been duly adduced and the jury having after due deliberation duly reached a verdict on the 30th day of October, 2018 in favor of the Defendant and entitling Defendant to recover against the Plaintiff the principal sum of \$450,000 (the "Verdict"); and

NOW, upon submission of this Order and Judgment by Pryor Cashman LLP, attorneys for the Defendant, it is hereby:

ORDERED, ADJUDGED AND DECREED that Defendant Restaurant Group Management Services, L.L.C., having an office at 880 Third Avenue, New York, New York 10022, shall have judgment against and recover from Plaintiff 37 East 50th Street Corporation, having an office at 4260 Broadway, New York, New York 10033, costs and disbursements in the amount of \$12,373.03, plus post-judgment interest at the applicable post-judgment interest rate

X

from and after the date and entry of this Judgment, and that Defendant shall have execution therefor; and it is further

ORDERED, ADJUDGED AND DECREED that:

1. Plaintiff's First Cause of Action asserting "Breach of Contract/Damages" is dismissed with prejudice (see Verdict, Dkt. No. 316 at 1(a), Dkt. No. 633);

2. Plaintiff's Second Cause of Action asserting "Breach of Contract/Specific Performance," including that portion of the Second Cause of Action alleging that Defendant failed to operate the restaurant on a "meaningful profitable basis," is dismissed with prejudice (see Verdict, Dkt. No. 316 at 1(a); Dkt. No. 633);

3. Plaintiff's Third Cause of Action seeking a "Declaratory Judgment for the Stillman Lease," including those portions of the Third Cause of Action alleging that Defendant breached the agreement between the parties by (i) entering into a lease naming MJS Entertainment, LLC ("MJS") as the tenant and (ii) deducting the rent due on the lease as an expense of the restaurant effectively shared equally by the parties, is dismissed with prejudice (see Verdict, Dkt. No. 316 at 1(a); Dkt. No. 633);

4. Plaintiff's Fourth Cause of Action asserting "Breach of Fiduciary Duty," including that portion of the Fourth Cause of Action alleging that Defendant breached its fiduciary duty by entering into a lease naming MJS as the tenant, is dismissed with prejudice (see Verdict, Dkt. No. 316 at 1(a) and 3(a); Dkt. No. 633);

5. Plaintiff's Fifth Cause of Action asserting "Breach of Contract," including that portion of the Fifth Cause of Action alleging that Defendant breached the agreement between the parties by deducting the rent due on the lease as an expense of the restaurant effectively shared equally by the parties, is dismissed with prejudice (see Verdict, Dkt. No. 316 at 1(a) and 3(a); Dkt. No. 633); and

6. Plaintiff's Sixth Cause of Action asserting "Breach of Implied Covenant of Good Faith and Faith Dealing," including that portion of the Sixth Cause of Action alleging that Defendant breached the agreement between the parties by entering into a lease naming MJS as the tenant, is dismissed with prejudice (see Verdict, Dkt. No. 316 at 3(a); Dkt. No. 633); and it is further

BARRY R. OSTRAGER
J.S.C.

ORDERED, ADJUDGED AND DECREED that the Clerk of the Court is hereby directed and authorized to enter Judgment accordingly. *The Clerk shall consider defendant's entitlement to costs and disbursements in connection with the separate Judgment on Counterclaim*

ENTER:

Barry R. Ostrager

J.S.C.

BARRY R. OSTRAGER
JSC

FILED

MAY - 7 2019

COUNTY CLERK'S OFFICE
NEW YORK

M.A.T.

CLERK

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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37 EAST 50th STREET CORPORATION,

Index No. 653067/2013

Plaintiff,

v.

BILL OF COSTS

RESTAURANT GROUP MANAGEMENT
SERVICES, L.L.C.

THEREBY CERTIFY THAT I HAVE
ADJUSTED THIS BILL OF COSTS AT

\$ 12,373.03

Defendant.

MAY - 7 2019

MAT

CLERK

Costs:

| | |
|--|----------|
| Proceedings before Note of Issue is Filed (CPLR § 8201(1))..... | \$200.00 |
| Proceedings after Note of Issue is filed and before trial (CPLR § 201(1))..... | \$200.00 |
| Trial (CPLR § 8201(3))..... | \$300.00 |
| Total Costs: | \$700.00 |

Disbursements:

| | |
|---|-------------|
| Filing note of issue/placing case on calendar (CPLR § 8020(a))..... | \$30.00 |
| Taking and making two transcripts of testimony on an Examination Before Trial (CPLR § 8301(a)(9)) | \$250.00 |
| Printing twelve copies of joint record on appeal, brief for appeal, and reply brief for appeal (CPLR § 8301(a)(6))..... | \$5821.68 |
| Printing three sets of exhibits for Trial (CPLR § 8301(a)(6)) | \$3790.67 |
| Printing one set of deposition transcripts for Trial (CPLR § 8301(a)(6))..... | \$254.79 |
| Renting graphics equipment for use during Trial (one-half of total cost) (CPLR§ 8301(a)(13))..... | \$1525.89 |
| Total Disbursements: | \$11,673.03 |

TOTAL COSTS AND DISBURSEMENTS: \$12,373.03

FILED

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