

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

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JUDITH GRUNBAUM,

Petitioner-Landlord,

L&T Index No.62949/2016

NOTICE OF MOTION

-against-

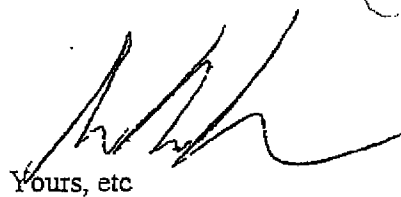
SUNDEEP SINGH SUCHDEV a/k/a  
SONNY SINGH,

Respondent-Tenant,

-----X

PLEASE TAKE NOTICE, that upon the annexed affirmation of Arun Perinbasekar, dated October 20, 2017, the affidavit of Petitioner, Judith Grunbaum sworn to on the 19<sup>th</sup> day of October 2017 and upon all of the pleadings and proceedings heretofore had herein, the undersigned will move this Court at a Motion Term in this Civil Court of the City of New York, Housing Part S, Room 504, thereof, to be held at the Courthouse located at 141 Livingston Street, Brooklyn, N.Y., County of Kings, City and State of New York, on the 2<sup>nd</sup> day of November 2017, at 9:30 o'clock in the forenoon of that day, or as soon thereafter as counsel can be heard, for an Order: an Order restoring this matter to the Court's calendar, after to completion of discovery, to set a trial date, granting Petitioner an award of all post-petition use and occupancy and use and occupancy *pendente lite*, pursuant to RPAPL Section 745, and for such other and further relief as this Court deems just and proper. Petitioner also requests that the Court issue an Order recusing itself from the instant matter pursuant to the Rules of the Chief Administrative Judge Section 100.2 and 100.3; and transferring this matter to another Justice of the Housing Court.

Dated: Rockville Centre, N.Y.  
October 20, 2017

A handwritten signature in black ink, appearing to be 'A. Sidrane', written over the typed name of the sender.

Yours, etc

Sidrane & Schwartz-Sidrane, LLP  
Attorney for Petitioner  
119 North Park Avenue, Suite 201  
Rockville Centre, NY 11570  
(516) 569-9539

TO:  
Visnja Vujica, Esq.  
Brooklyn Legal Services  
Attorneys for Respondent  
105 Court Street  
Brooklyn, New York 11201

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

-----x  
JUDITH GRUNBAUM,

Index No. 62949/2016

Petitioner,

**AFFIRMATION IN  
SUPPORT**

-against-

SUNDEEP SINGH SUCHDEV a/k/a  
SONNY SINGH,

Respondent.  
-----x

Arun Perinbasekar, an attorney duly admitted to practice before the Courts of New York, hereby affirms under the penalties of perjury as follows:

- I am an associate attorney at the law firm Sidrane & Schwartz-Sidrane LLP, attorneys for Petitioner herein and as such I am fully familiar with the facts and circumstances of the instant proceeding. I submit this affirmation in support of the Petitioner's motion for an Order restoring this matter to the Court's calendar, after to completion of discovery, to set a trial date, granting Petitioner an award of all post-petition use and occupancy and use and occupancy *pendente lite*, pursuant to RPAPL Section 745, and for such other and further relief as this Court deems just and proper. Petitioner also requests that the Court issue an Order recusing itself from the instant matter pursuant to the Rules of the Chief Administrative Judge Section 100.2 and 100.3; and transferring this matter to another Justice of the Housing Court.

**The Instant Must be Restored to the Court's Calendar**

2. By way of background, the instant proceeding, and six companion cases, were brought against the tenants of 70 South Elliot Place for the purpose of acquiring possession of the premises for the personal use of Judith Grunbaum.
3. Ms. Grunbaum obtained title for the subject premises on or about September 3, 2015.
4. The Respondent, and other tenants of the subject premises, occupy SRO units at the subject premises. Prior to commencement of this proceeding the owner had served golub notices dated November 24, 2015 setting forth that the owner intended to take possession of subject premises for the intention of utilizing the building as her home as it was desirable for her needs. Specifically the Petitioner noted that the subject premises was close to her chosen temple and business dealing in New York and that the subject premises was large enough to accommodate her large family that resides in or about the area.
5. The matter first appeared in Court on April 8, 2016 and was thereafter adjourned to May 26, 2016.
6. By notice of motion, Petitioner moved to consolidate the instant action with the six related actions regarding the subject premises. On May 26, 2016 the motion was granted without opposition. The matter was thereafter adjourned to July 18, 2016.
7. Respondent thereafter interposed a Verified Answer, dated June 13, 2016. Respondent also moved for discovery pursuant to CPLR 408 and said motion was made returnable on July 18, 2017.

8. The parties argued the motion on August 22, 2016 before Judge Baum who took the motion on submission to issue a written decision. On November 21, 2016 Judge Baum issued his decision granting discovery and setting forth specifically what documentation the Respondent was entitled to and that the Respondent was entitled to a deposition of Petitioner. Therefore, the matter was marked off calendar for the completion of discovery.
9. Petitioner then served her first response to discovery on or about February 17, 2017. A second response was thereafter served on April 24, 2017.
10. Thereafter, the Petitioner then sat for a deposition on June 14, 2017 which was continued to and completed on July 19, 2017. During the course of the deposition, the Petitioner unequivocally stated under oath that she and her husband would be the only individuals residing at the subject premises should the Petitioner be granted possession in this case and the companion cases. Petitioner established that her children, grandchildren and great-grandchildren would not be living with her at the subject premises.
11. During the course of the deposition that the Respondents made requests for additional information. Specifically, the Respondents requested information regarding the ownership interest Petitioner had in 431-435 Central Avenue, Brooklyn, New York. As set forth in the deposition and the annexed affidavit, the Petitioner has no ownership interest in 435 Central Condo Development LLC and that the deed transferring the property to 435 Central Condo Development LLC from Petitioner's entity improperly listed Petitioner as both a member of the buyer and the seller. This statement was a drafting error and the Petitioner never signed on behalf of the buyer.

12. Additionally requested was information regarding whether Lipa Zicherman was authorized to discuss settlement on behalf of the Petitioner. As set forth in the affidavit annexed hereto, Mr. Zicherman was never authorized to do so. The Petitioner's authorized her son, to discuss potential settlement of the matter. Petitioner's son thereafter retained Yossi Geshtetner to conduct settlement discussions.
13. Respondent's final request made at the deposition was for additional information regarding the location of the Chabad Fort Greene and whether said location is temporary. Petitioner upon discussing the matter with her daughter, who provided the Chabad Fort Greene its space to worship and with the rabbi of the congregation has been told unequivocally that said location is not temporary in any way.
14. Therefore, as discovery has been completed the instant matter must be restored to the calendar so that the parties may pick a trial date.

**Petitioner Respectfully Requests that the Court Recuse itself from the Instant Matter**

15. In the absence of a mandatory legal disqualification under Judiciary Law Section 14, a trial judge is the sole arbiter of the need for recusal, and his or her recusal is a matter of discretion and personal conscience. See People v. Moreno, 70.N.Y.2d 403 (1987); Schwartzberg v Kingsbridge Heights Care Center, Inc., 28 A.D.3d 465 (2<sup>nd</sup> Dept., 2006). Furthermore, it is also true that actual bias of the judge is not a mandatory ground for disqualification under Judicial Law Section 14. See Matter of Fitzgerald v. Wells, 9 A.D.2d 812 (3<sup>rd</sup> Dept., 1959). However, actual bias is significant if it impairs the Jurist's ability to render and impartial decision.
16. Moreover, even the appearance of judicial impartiality is an important consideration and of great concern in the instant matter. The Court of Appeals has noted that is better

practice in some situations for a court to disqualify itself in a special effort to maintain the appearance of impartiality. See Corrandino v. Corrandino, 48 N.Y.2d 894, 895 (1979).

17. Additionally, The Rules of the Chief Administrative Judge Sections 100.2 and 100.3 have established that a judge must avoid impropriety, and even the appearance of impropriety, that a judge must perform his duties impartially and diligently, and that a judge shall perform judicial duties without bias or prejudice against or in favor of any person. Moreover the Rules of the Chief Administrative Judge Section 100.3 (A)(1)(a)(i) provides that a judge shall disqualify himself in a proceeding in which the judge's impartiality might reasonably be questioned, including instances where the judge has a personal bias or prejudice concerning a party. See e.g. In re Murphy, 82 N.Y.2d 491 (1993).
18. Although, as stated above, bias or prejudice of a Judges does not require a mandatory recusal, deprive him of jurisdiction that is often the better practice. Moreover, the contention of judicial bias provide a basis and grounds for an appeal. See State Div. Of Human Rights v. Merchants Mut. Ins. Co., A.D.2d 1054 (1977); Schwartzberg v Kingsbridge Heights Care Center, Inc., 28 A.D.3d 465 (2<sup>nd</sup> Dept., 2006).
19. Here, the Petitioner requests that the Court recuse itself as the Respondent is represented by Brooklyn Legal Services. The Court, prior to be being appointed, held a supervisory role at Brooklyn Legal Services and thus was intimately involved in the day to day operations of Brooklyn Legal Services, and supervised the various attorneys that have appeared on behalf of the Respondent in this matter. The attorneys involved in this matter

include Pavita Krishnaswamy, Nisha D. Vora, Shannon Karam, Visnja Vujica, and Taylor Anvid.

20. As such, to avoid any indication of the appearance of bias or impropriety the Petitioner respectfully requests that the Court recuse itself from this matter and refer the instant matter to coordinate part of the housing court. It is noted that the parties have completed discovery and that the matter needs only resolution before the trial part regarding this matter. However, if the Court were required to render any substantive decisions regarding this matter, Petitioner maintains that referral to another part would be appropriate under the circumstances of this case.

**Petitioner is Entitled to Use and Occupancy**

21. While the Petitioner maintains that the matter should to be referred to another Justice of the Housing, if the Court decides not to recuse itself, Petitioner seeks an Order directing Respondent to pay use and occupancy of the subject premises during the pendency of this proceeding. No use and occupancy has been paid since Petitioner purchased the subject premises in September 2015.
22. The Respondent is an occupant of a class B, SRO and took possession of said unit pursuant to a month to month tenancy. As the subject premises are an SRO unit, no lease was provided and the Respondent remained in possession pursuant to a month to month tenancy at a monthly rent of \$300.00. Respondent entered into possession with Petitioner's predecessor in interest, Arthur Gassner.
23. In a prior proceeding before the Division of Housing and Community Renewal, the Respondent maintained that the monthly rent for the subject unit was \$300.00. See Exhibit A.




24. Here, the fair market value for use and occupancy for the subject premises is no less than \$500.00. The Court is referred to the annexed affidavit of Judith Grunbaum, principal of Petitioner
25. To date the value of Respondent's use and occupancy due from October 2015 is at least \$7,500.00. Respondent has never made any payment for rent or use and occupancy to Petitioner. -
26. The instant application is made returnable more than 30 days after the first appearance of the parties in Court. See, RPAPL 745 (2), Delta Airlines v. Metropolitan Culinary Services, 2 Miss. 3d 127[A], 2003 NY Slip Op 51690 [u] (App. Term. 2s & 11<sup>th</sup> Jud. Dists., see also, Lang v. Potaki, 271 A.D.2d 375, 376, 707 N.Y.S.2d 90 (1<sup>st</sup> Dept., 2000).
27. As noted by the Court in Lipkis v. Pikus, 99 Misc.2d 518, 520, 416 N.Y.S. 2d 694 (App. Term, 1<sup>st</sup> Dept.) aff'd 72 A.D.2d 697 "[h]aving entered into possession fully cognizant of the existing realties, tenants should not now be permitted to reap the benefits of occupancy and, at the same time, avoid the payment of rent."
28. It is black letter law that pending litigation does not obviate a Tenant's obligation to pay rent, nor Landlord's need for rent to operate the Building. Eli Haddad Corp. v. Cal Redmond Studio, Inc., 102 A.D.2d 730, 476 N.Y.S.2d 864 (1st Dept., 1984); Adler v. Shapiro, 92 A.D.2d 452, 458 N.Y.S.2d 913 (1st Dept., 1983); Lucina Realty Co. v. Flachner, 180 N.Y.S. 732 (App. Term 1st Dept. 1920).
29. Therefore, since Petitioner has not received any rent or use and occupancy since commencement of the proceeding, and Respondent has remained at the subject premises, Petitioner respectfully requests that Petitioner be granted an award of all use and occupancy of at least \$7,500.00 through October 2017 and use and occupancy *pendente*

*lite* at a rate of at least \$300.00 per month.

WHEREFORE, based on the foregoing, Petitioner's motion must be granted in its entirety.

Dated: October 20, 2017  
Rockville Centre, New York



Arun Perinbasekar

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

-----x  
JUDITH GRUNBAUM,

Index No. 62949/2016

Petitioner,

AFFIDAVIT IN  
SUPPORT

-against-

SUNDEEP SINGH SUCHDEV a/k/a  
SONNY SINGH

Respondent.

-----x

JUDITH GRUNBAUM, being duly sworn, hereby deposes and states as follows:

1. I am the Petitioner herein and Owner of 70 South Elliott Street, Brooklyn, New York. and as such I am fully familiar with the facts and circumstances of the instant proceeding. I submit this affidavit in support of the Petitioner's motion for an Order restoring this matter to the Court's calendar, after to completion of discovery, to set a trial date, granting Petitioner an award of all post-petition use and occupancy and use and occupancy *pendente lite*, pursuant to RPAPL Section 745, and for such other and further relief as this Court deems just and proper. Petitioner also requests that the Court issue an Order recusing itself from the instant matter pursuant to the Rules of the Chief Administrative Judge Section 100.2 and 100.3; and transferring this matter to another Justice of the Housing Court.
2. I obtained title for the subject premises on or about September 3, 2015.
3. The Respondent, and other tenants of the subject premises, occupy SRO units at the subject premises. Prior to commencement of this proceeding I had served golub notices dated November 24, 2015 setting forth that the owner intended to take possession of

subject premises for the intention of utilizing the building as her home as it was desirable for her needs. Specifically I noted that the subject premises was close to my chosen temple and business dealing in New York and that the subject premises was large enough to accommodate her large family that resides in or about the area.

4. I sat for a deposition on June 14, 2017 which was continued to and completed on July 19, 2017. During the course of the deposition, I unequivocally stated under oath my husband and I would be the only individuals residing at the subject premises should I be granted possession in this case and the companion cases. I established that my children, grandchildren and great-grandchildren would not be living with her at the subject premises.
5. During the course of the deposition that the Respondents made requests for additional information. Specifically, the Respondents requested information regarding the ownership interest I had in 431-435 Central Avenue, Brooklyn, New York. As set forth in the deposition and I have no ownership interest in 435 Central Condo Development LLC and the deed transferring the property to 435 Central Condo Development LLC from my entity improperly listed Petitioner as both a member of the buyer and the seller. This statement was a drafting error and I never signed on behalf of the buyer.
6. Additionally requested was information regarding whether Lipa Zicherman was authorized to discuss settlement on behalf of myself. Mr. Zicherman was never authorized to do so. I authorized my son, to discuss potential settlement of the matter. My son thereafter retained Yossi Geshtetner to conduct settlement discussions.
7. Respondent's final request made at the deposition was for additional information regarding the location of the Chabad Fort Greene and whether said location is temporary.

Upon discussing the matter with my daughter, who provided the Chabad Fort Greene its space to worship and with the rabbi of the congregation I have been told unequivocally that said location is not temporary in any way.

8. Therefore, as discovery has been completed the instant matter must be restored to the calendar so that the parties may pick a trial date.
9. No use and occupancy has been paid since Petitioner purchased the subject premises in September 2015.
10. The Respondent is an occupant of a class B, SRO and took possession of said unit pursuant to a month to month tenancy. As the subject premises are an SRO unit, no lease was provided and the Respondent remained in possession pursuant to a month to month tenancy at a monthly rent of \$300.00. Respondent entered into possession with my predecessor in interest, Arthur Gassner.
11. In a prior proceeding before the Division of Housing and Community Renewal, the Respondent maintained that the monthly rent for the subject unit was \$300.00. See Exhibit A.
12. Here, the fair market value for use and occupancy for the subject premises is no less than \$500.00. This valuation is based upon my conversations with real estate professional that rent units in the area, and my general knowledge of the real estate market.
13. To date the value of Respondent's use and occupancy due from October 2015 is at least \$7,500.00. Respondent has never made any payment for rent or use and occupancy to Petitioner.
14. Therefore, since I have not received any rent or use and occupancy since commencement of the proceeding, and Respondent has remained at the subject premises, I respectfully

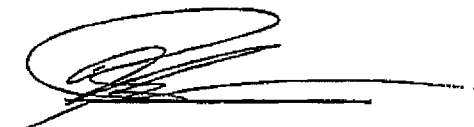
October 2017 and use and occupancy *pendente lite* at a rate of at least \$300.00 per month.

WHEREFORE, based on the foregoing, Petitioner's motion must be granted in its entirety.

  
\_\_\_\_\_  
JUDITH GRUNBAUM

Sworn to before me this

9 day of October 2017



Notary Public

MARCUS B. MCLEAN  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 01MC6061823  
Qualified in New York County  
My Commission Expires December 13, 2017