

SUPREME COURT OF THE STATE OF NEW YORK NEW YORK COUNTY

PRESENT: HON. ROBERT R. REED
J.S.C. Justice

PART 43

Index Number : 157669/2016
FIFTH PARTNERS LLC
vs.
HARTFORD CP MANAGEMENT LLC ET AL
SEQUENCE NUMBER : 001
SUMMARY JUDGMENT

INDEX NO. _____
MOTION DATE _____
MOTION SEQ. NO. _____

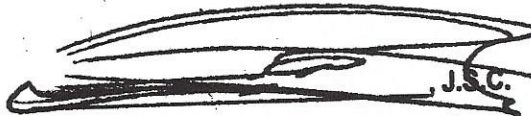
The following papers, numbered 1 to _____, were read on this motion to/for _____
Notice of Motion/Order to Show Cause -- Affidavits -- Exhibits _____ | No(s). _____
Answering Affidavits -- Exhibits _____ | No(s). _____
Replying Affidavits _____ | No(s). _____

Upon the foregoing papers, it is ordered that this motion is

decided in accordance with the attached decision and order.

FOR THE FOLLOWING REASON(S):

Dated: 10/30/18


J.S.C.

- 1. CHECK ONE: CASE DISPOSED NON-FINAL DISPOSITION
- 2. CHECK AS APPROPRIATE: MOTION IS: GRANTED DENIED GRANTED IN PART OTHER
- 3. CHECK IF APPROPRIATE: SETTLE ORDER SUBMIT ORDER
- DO NOT POST FIDUCIARY APPOINTMENT REFERENCE

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: IAS PART 43**

FIFTH PARTNERS, LLC,

Plaintiff,

Index No.: 157669-2016

-against-

DECISION & ORDER

HARTFORD CP MANAGEMENT, LLC and
IRENE SHAPIRO,

Defendants,

ROBERT R. REED, J.:

Upon the foregoing papers, it is ordered that this motion for summary judgment, pursuant to CPLR 3212, is granted.

Plaintiff landlord has established by submission of an affidavit of a person with knowledge, together with documentary evidence, its prima facie entitlement to recover from tenant and tenant's guarantor for damages arising under the applicable lease (and guaranty) relating to unpaid base rent, unpaid additional rent, the premature re-letting of the premises, and for attorney's fees mandated pursuant to the lease. Defendant tenant and defendant guarantor have failed to demonstrate a triable issue of fact in response.

Accordingly, it is hereby

ORDERED that summary judgment is granted in favor of plaintiff and against defendants on the first and third causes of action for base and additional rent of \$31,781.54; and it is further

ORDERED that summary judgment is granted in favor of plaintiff and against defendants on the second and fourth causes of action for re-letting expenses, as liquidated damages, of \$20,362.55; and it is further

ORDERED that summary judgment is granted in favor of plaintiff and against defendants on the fifth and sixth causes of action for attorney's fees; and it is further

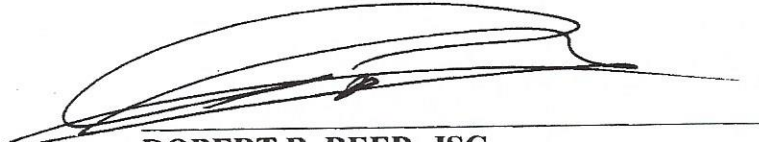
ORDERED that the portion of plaintiff's action that seeks attorney's fees is severed and shall continue, and an assessment is hereby directed on the amount of attorney's fees to be awarded to plaintiffs; and it is further

ORDERED that, within 30 days from entry of this order, plaintiff shall serve a copy of this order with notice of entry, a note of issue and statement of readiness, by first class mail, and, by e-filing, upon the Clerk of the Trial Support Office, and shall pay the appropriate fees, if any, and said Clerk shall thereupon place this action on the appropriate trial calendar for the assessment hereinabove directed; and it is further

ORDERED that if plaintiff fails to comply with the immediately preceding paragraph, the claim for attorney's fees will be deemed dismissed.

This constitutes the decision and order of the Court.

Dated: October 30, 2018



ROBERT R. REED, JSC