

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

**PRESENT: HON. PAUL A. GOETZ PART 47**

*Justice*

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32-42 BROADWAY OWNER, LLC,

Plaintiff,

- v -

42 BROADWAY NEWS LLC, BHAVYA PATEL

Defendants.

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INDEX NO. 150332/2022

MOTION DATE 08/01/2022

MOTION SEQ. NO. 001

**DECISION + ORDER ON  
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 001) 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41

were read on this motion to/for JUDGMENT - SUMMARY.

Upon the foregoing documents, it is

ORDERED that plaintiff’s motion is granted as follows; and it is further

ORDERED that pursuant to CPLR § 3025(c) the complaint is amended to conform to the evidence submitted with the instant motion; and it is further

ORDERED that summary judgment is granted in favor of plaintiff as against defendant 42 Broadway News LLC pursuant to CPLR § 3212 on plaintiff’s first cause of action for base rent, additional rent charges and liquidated damages in the amount of \$263,962.05 with interest from July 1, 2021 together with costs and disbursements and the Clerk shall enter judgment accordingly as defendant’s vague and unsubstantiated claim that plaintiff failed to provide unrestricted access to the premises is insufficient to create and issue of fact (*State Farm Mut. Auto. Ins. Co. v Klein*, 190 AD3d 876, 878 [2<sup>nd</sup> Dept 2021]) and defendant received the rent credits and reductions agreed to by the parties; and it is further

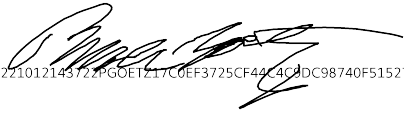
ORDERED that summary judgment is granted in favor of plaintiff as against defendant Bhavya Patel pursuant to CPLR § 3212 on plaintiff's second cause of action under the guaranty in the amount of \$263,962.05 with interest from July 1, 2021 together with costs and disbursements and the Clerk shall enter judgment accordingly as the provisions under paragraph 29.01 relieving the guarantor did not take effect because tenant, 42 Broadway News LLC vacated the premises owing plaintiff gross rent and because NYCRR § 202.8(c) was not applicable to tenant because it was an "essential business" as defined by the New York State Department of Economic Development; and it is further

ORDERED that summary judgment is granted in favor of plaintiff as against both defendants pursuant to CPLR § 3212 on plaintiff's third cause of action for attorneys' fees incurred in connection with this action and shall submit, within 10 days of entry of this order, via NYSCEF and email to [yzolotar@nycourts.gov](mailto:yzolotar@nycourts.gov), an affirmation in support of same; and it is further

ORDERED that any opposition to the amount of fees is due 10 days thereafter; and it is further

ORDERED that defendants' boilerplate affirmative defenses and counterclaims are dismissed (*see Scholastic Inc. v Pace Plumbing Corp.*, 129 AD3d 75 [1<sup>st</sup> Dept 2015]) and as to subject matter jurisdiction, the court has subject matter jurisdiction pursuant to its "unlimited general jurisdiction over all plenary real property actions" (*A&L 1664 LLC v Jaspur Hospitality LLC*, 201 AD3d 512 [1<sup>st</sup> Dept 2022]) and the court has personal jurisdiction over the parties

pursuant to CPLR § 302.



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10/12/2022  
DATE

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PAUL A. GOETZ, J.S.C.

CHECK ONE:


CASE DISPOSED  
 GRANTED  DENIED  
 SETTLE ORDER  
 INCLUDES TRANSFER/REASSIGN


NON-FINAL DISPOSITION  
 GRANTED IN PART  OTHER  
 SUBMIT ORDER  
 FIDUCIARY APPOINTMENT  REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: