

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

PRESENT: HON. PAUL A. GOETZ PART 47

*Justice*

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MELANIE JOHNSON, JEREMY SCHENDEL, MICHAEL  
KAN, GIANCARLOS ZAMBRANO

Plaintiff,

- v -

781 METROPOLITAN AVE JV LLC,

Defendant.

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INDEX NO. 155763/2021

MOTION DATE 05/21/2025

MOTION SEQ. NO. 002

## DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 002) 72, 73, 74, 75, 76, 77

were read on this motion to/for MISC. SPECIAL PROCEEDINGS.

Upon the foregoing documents, it is

Plaintiffs Melanie Johnson, Jeremy Schendel, and Giancarlos Zambrano, on behalf of themselves and the class, move unopposed for an order granting preliminary approval of the settlement agreement (NYSCEF Doc No 74 [the settlement agreement]) and the proposed notice (NYSCEF Doc No 75 [the notice]) and distribution thereof. The court having read and considered the settlement agreement and notice, and the parties having consented to the entry of this preliminary approval order, it is hereby

ORDERED that the motion is granted, and the settlement agreement is preliminarily approved and the relief set forth therein as being fair, reasonable, adequate, and in the best interests of the class, subject to final determination at the fairness hearing; and it is further

ORDERED that the fairness hearing shall be held on January 22, 2026 at 2:15 p.m., in the Supreme Court of the State of New York, County of New York, Part 47, 111 Centre Street, Room 1021, New York, New York 10013 to:

- a. determine whether the settlement agreement should be finally approved by the court as fair, reasonable, adequate, and in the best interests of the class;
- b. determine whether an order and final judgment should be entered pursuant to the settlement agreement;
- c. consider plaintiff's application for an award of attorneys' fees and expenses and for the class representative incentive award; and
- d. rule on such other matters as the court may deem appropriate.

And it is further

ORDERED that within twenty (20) days after the date of entry of this order, the lead counsel shall cause a notice of the fairness hearing in substantially the form proposed (NYSCEF Doc No 75) to be mailed and, to the extent possible, emailed to all class members. To the extent such information is known and reasonably available as of the date of this order, defendant shall supply to lead counsel, in a confidential manner, each class member's current or last known residential address, and current or last known email address, which information the lead counsel shall destroy after all of its duties under this settlement agreement are fulfilled. Lead counsel shall, at least ten (10) days before the fairness hearing, file with the court an appropriate affidavit with respect to the preparation, mailing and publication of the notice; and it is further

ORDERED that the form and method of notice herein is the best notice practicable and constitutes due and sufficient notice of the fairness hearing to all persons entitled to receive such a notice; and it is further

ORDERED that all proceedings in the action, other than such proceedings as may be necessary to carry out the terms and conditions of the settlement are hereby stayed and suspended until further order of the court. Pending final determination of whether the settlement

should be approved, plaintiff, and all class members, are barred and enjoined from commencing, prosecuting, instigating or in any way participating in the commencement or prosecution of any action asserting any claims asserted in the action, either directly, representatively, derivatively, or in any other capacity, against defendant; and it is further

ORDERED that any class member who objects to the settlement, the order and final judgment to be entered in the action, and/or lead counsel's application for attorneys' fees, or who otherwise wishes to be heard, may appear in person or by such class member's attorney at the fairness hearing and present evidence or argument that may be proper and relevant; provided, however, that, except for good cause shown, no person shall be heard and no papers, briefs, pleadings or other documents submitted by any person shall be considered by the court unless not later than January 12, 2026 such person files with the court and serves upon all counsel listed below: (a) a written notice of intention to appear containing a notarized statement attesting to the fact that such person is a member of the class; (b) a detailed statement of such person's specific position with respect to the matters to be considered at the fairness hearing and the grounds therefor; and (c) copies of any papers such person intends the court to consider. Such filings shall be served by first class mail upon the following counsel:

Roger A. Sachar Jr., Esq.  
**NEWMAN FERRARA, LLP**  
1250 Broadway, 27<sup>th</sup> Floor  
New York, NY 10001  
[rsachar@nflp.com](mailto:rsachar@nflp.com)

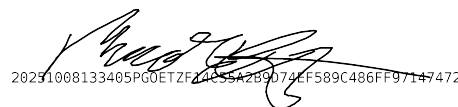
Luise Barrack, Esq.  
**ROSENBERG & ESTIS, P.C.**  
733 Third Avenue  
New York, New York 10017  
[lbarrack@rosenbergestis.com](mailto:lbarrack@rosenbergestis.com)

and then filed with the clerk of the court; and if no objections are received by January 12, 2026, no appearance on January 22, 2026 is required; and it is further

ORDERED that unless the court otherwise directs, no person shall be entitled to object to the approval of the settlement, any judgment entered thereon, the adequacy of the representation

of the class by plaintiffs and lead counsel, any award of attorneys' fees, or otherwise be heard, except by serving and filing a written objection and supporting papers and documents as described above. Any person so objecting shall submit themselves to the personal jurisdiction of this court for discovery purposes pursuant to the CPLR upon three days' written notice, including, without limitation, submitting to a sworn deposition at a place to be determined by lead counsel, interrogatories and other written questions, and requests for production of documents, regarding the objector's standing to object and the basis for such objection. Any person who fails to object in the manner described above shall be deemed to have waived the right to object (including any right of appeal) and shall be forever barred from raising such objection in this or any other action or proceeding; and it is further

ORDERED that if the settlement agreement is not approved by the court or shall not become effective for any reason whatsoever, the settlement (including any modification thereof), and any actions taken or to be taken in connection therewith (including this order and any judgment entered herein) shall be terminated and shall become void and of no further force or effect. In that event, neither the settlement agreement, nor any provision contained therein, nor any action undertaken pursuant thereto, nor the negotiation thereof by any party shall be deemed an admission or received as evidence in this or any other action or proceeding.

  
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10/8/2025

DATE

CHECK ONE:

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CASE DISPOSED

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GRANTED

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DENIED

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NON-FINAL DISPOSITION

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GRANTED IN PART

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OTHER

APPLICATION:

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SETTLE ORDER

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SUBMIT ORDER

CHECK IF APPROPRIATE:

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INCLUDES TRANSFER/REASSIGN

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FIDUCIARY APPOINTMENT

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REFERENCE