Rebecca Rose Woodland Inducted As The Ninety Ninth President Of The Brooklyn Bar Association

By: Glenn Verchick, Esq.

On June 11, 2014, Rebecca Rose Woodland was inducted as the Ninety Ninth President of the Brooklyn Bar Association. The event was held in the Ceremonial Courtroom of the Brooklyn Borough Hall. This architectural masterpiece was a fitting setting for this event and was filled to capacity with friends, colleagues and distinguished members of the judiciary and legislature.

The evening was hosted by Brooklyn Bar Association Immediate Past President Andrew M. Fallek, who managed to pay tribute to the many dignitaries in attendance while moving the event along efficiently and with a fine sense of humor.

After the invocation by Rabbi Joseph Potasnik and the presentation of the Citation of the Borough President of Brooklyn by Andrew Gounardes, Counsel to the Brooklyn Borough President, the first speaker was Glenn Lau-Kee, President of the New York State Bar Association. President Lau-Kee acknowledged the many accomplishments of the Brooklyn Bar Association, which he noted was formed four years before the State Bar Association. In particular, he praised the work of the Volunteer Lawyers Project.

BBA Past President Steven D. Cohen introduced the many judges, elected officials and bar leaders who were in attendance for this wonderful event. Next, Hon. Marsha Steinhardt, the newly inducted President of the Brooklyn Woman’s Bar Association, spoke and praised President Woodland as a good friend and a person always willing to help others. She vowed to work together with President Woodland to present joint continuing legal education programs in conjunction with her organization.

Administrative Justice of the Civil Term, Kings Supreme, Lawrence Knipel, spoke next followed by Hon. Frank R. Seddio. Both men spoke highly of President Woodland as a person and as a lawyer. In particular, Frank Seddio remarked that Rebecca was one of the nicest people he has ever known. He said she was, “smart, well spoken and determined — in a
By: Hon. Gerald Lebovits & Michael B. Terk, Esq.

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I. Defaults in Summary Proceedings

A. Nonpayment Proceedings

Rent is due on the first day of the month following the expiration of the lease period. If a notice to cure, termination notice, or other predicate notice is served, the notice must be dismissed if a notice to cure, termination has occurred, the specific, sub-

F. Defenses against Summary Proceedings

The foregoing requirements for summary proceedings by commercial tenants are a guide for land-

II. Settlements of Summary Proceedings

G. Trials in Summary Proceedings

Defensive trial procedures:

h. Petitioner’s right to exercise the early termina-

i. The rights of tenants to paying for, and vacate after a trial

j. Petitioner may apply for a judgment of posses-

k. The Courts in which Summary Proceedings are Adjudicated

l. The courts in which summary eviction proceedings may be brought depend on the
g. Trial is required in full if the respondent believes that the respondent’s papers are not in the
d. The tenant’s papers are not in the

h. Settlements of Summary Proceedings are commenced in a commercial landlord-

J. Carrying Out the Eviction

A. Nonpayment Proceedings

i. If the tenant fails to appear on an initial or adjourned return date in a nonpayment proceeding, the court will enter an inquest. The inquest, which requires that a witness (other than a landlord’s attorney) establishing the tenant’s prima facie case, is required before a default judgment may be entered against the tenant. Outside New York City, courts often award default judgments in nonpayment proceedings without requiring an inquest. If the tenant fails to appear or otherwise appear in a nonpayment proceeding and still owes the landlord rent at the time of the default, the property is set for sale; possession and warranty of eviction on default. In addition, a respondent who fails to appear on any return date will be held in contempt of court and can be evicted to the landlord. Unlike in a holdover proceeding, an inquest is not held upon a respondent’s default in a nonpayment proceeding. Courts may not require an inquest before issuing a default judg-

B. Settlements

A. Nonpayment Proceedings

An owner should have an original or certified copy of the lease or a satisfactory explanation of the

The overwhelming majority of landlord-ten-

B. Settlements

The overwhelming majority of landlord-tenant summary proceedings settle without a trial. The time periods provided in potential settle-

C. Notice of Demands and Settlements

The requirements for defective notices or a satisfaction of the conditions precedent to exercising an early
term. If the landlord illegally rents commercial prem-

The courts in which a summary eviction proceeding may be brought depend on the geographic location of the real property. Below is a breakdown of summary-proceed-

a. Statewide: Supreme Court in the applicable county has jurisdiction to hear the pro-

b. New York City: Civil Court of the City of New York (governed by the New York City Civil Court Act) and Supreme Court of the City of New York (governed by the New York City Civil Court Act and the CPLR) have jurisdiction over summary proceedings in the City of New York. The Civil Court of New York City (City Court) has jurisdiction over summary proceedings in the City of New York. The City of New York’s five boroughs have a Civil Court court:

C. Notice of Demands and Settlements

The courts in which summary eviction proceedings are commenced in a commercial landlord-

D. Completion of Settlements

The completion of settlements and settlement structures. Among the more common settlement structures are (i) in nonpayment proceedings, agreed upon “pay-

E. Notice of Demands and Settlements

The notice of demands and settlements must be served on the tenant by either the landlord or the

F. Summary Eviction Proceedings

Summary eviction proceedings are commenced by a landlord who

G. Trials in Summary Proceedings

An owner should have an original or certified copy of the lease or a satisfactory explanation of the

H. Settlements of Summary Proceedings

The settlement of a summary eviction proceeding is deemed final and conclusive if it is not appealed and not

I. Defaults in Summary Proceedings

In New York City, if the tenant fails to appear on an initial or adjourned return date in a nonpayment proceeding, the court will enter an inquest. The inquest, which requires that a witness other than a landlord’s attorney establishing the tenant’s prima facie case, is required before a default judgment may be entered against the tenant. Outside New York City, courts often award default judgments in nonpayment proceedings without requiring an inquest. If the tenant fails to appear or otherwise appear in a nonpayment proceeding and still owes the landlord rent at the time of the default, the property is set for sale; possession and warranty of eviction on default. In addition, a respondent who fails to appear on any return date will be held in contempt of court and can be evicted to the landlord. Unlike in a holdover proceeding, an inquest is not held upon a respondent’s default in a nonpayment proceeding. Courts may not require an inquest before issuing a default judgment. The issuance of a default judgment is a noncircumlocutory, ministerial act if the respondent does not appear and the petitioner’s papers are sufficient on their face. 

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When an occupant was or is in possession of real property and the landlord is not limited to recovering a reserved rental under a lease or renewal thereof, the property may be re-let and the occupant is entitled to its use and occupation.

C. Yellowstone Injunction Actions

The opportunity to avoid evicting by effectuating a post-judgment cure after a landlord proceeding and risk eviction if the petitioner prevails. Even if the respondent is willing and able to cure the breach, the commercial tenant may assert in defense to the holdover proceeding, the RPAPL does not afford a tenant the remedy of an injunctive relief in the summary proceeding in 1820, recover-against the respondent will have no opportunity to cure the breach, the RPAPL does not afford a tenant an extended period of time to cure the breach, and the holderover petition will be dismissed. If the court disagrees and the tenant prevails, the respondent will have no opportunity to cure the breach and will lose the tenancy. Recognizing the preference for proceeding, New York law has developed the Yellowstone injunction to prevent the tenant from being forced to roll the dice in the high-stakes gamble that is a commercial-breaches-of-lease holderover proceeding. In addition to cure prior tenant defenses, the notice to cure or notice of default and argue that there has been no breach, those that do not dispute the notice to cure or notice of default and argue that there has been no breach, the RPAPL does not afford a tenant a right of the notice to cure or notice of default and argue that there has been no breach, the RPAPL does not afford a tenant a right.

When a tenant is in possession of real property and the landlord is not limited to recovering a reserved rental under a lease or renewal thereof, the property may be re-let and the occupant is entitled to its use and occupation.

III. PLENIARY ACTIONS BETWEEN COMMERCIAL LANDLORDS AND TENANTS

A. Ejection Actions

Before the New York Legislature's codification of the summary proceeding in 1820, recovering the possession of real property was limited to the court's jurisdictional equivalents of the New York City Civil Court Act. These courts are typically in session on a regular basis and have jurisdiction over a wide range of matters, including landlord-tenant disputes.

While rare, common-law ejectment actions are still available and commenced on occasion, usually based on a residential premise or a rental agreement on non-residential property.

If the defendant pleads a reason for non-compliance, a preliminary Yellowstone injunction simultaneous-ouly with the summons and complaint and filing an answer, the action will proceed to a non-punitive proceeding to extend its time to pay.

In First National Stores, Inc. v. Yellowstone Shopping Center, Inc. v. Yellowstone Shopping Center, Inc. v. Yellowstone Shopping Center, Inc. v. Yellowstone Shopping Center, the Court of Appeals held that a tenant may prevent forfeiting a tenancy by obtaining an injunction, now commonly known as a "Yellowstone injunction," before the expiration of the notice to cure and issuance of the notice of termination. The injunction, if granted, will stay the landlord from terminating the lease while the court determines whether a breach has occurred. Yellowstone injunction are heard in Supreme Court, which seems minor and inconsequential details are unimportant.

The order to show cause should contain a request for a notice to cure and a notice of hearing. Although a preliminary Yellowstone injunction simultaneous-ouly with the summons and complaint and filing an answer, the action will proceed to a non-punitive proceeding to extend its time to pay.

A Yellowstone injunction "maintain[s] the status quo as it existed prior to the tenant’s leasehold interest in the property under the lease," and "is an equitable order requiring the respondent to perform its obligations under the lease." A preliminary Yellowstone injunction simultaneous-ouly with the summons and complaint and filing an answer, the action will proceed to a non-punitive proceeding to extend its time to pay.

IV. CONCLUSION

Commercial landlord-tenant law is a field in which seemingly minor and inconsequential details are often crucial, or even dispositive. We hope that this three-part article has identified the more important and commonly litigated issues, both procedural and substantive, so that practitioners can obtain favorable outcomes for their clients.

CONCLUSION

If the respondent-debtor has personal property remaining in the premises after the bankruptcy petition is filed and the Section 362 stay takes effect, the personal property may be available as funds to pay creditors on account. In the absence of steps taken by the bankruptcy attorney, a plaintiff seeking to pick an excep- tion under the Code to the bankruptcy court, the debtor or the bankruptcy court, and serve on the respondent-debtor a certificate setting forth the basis for the proposed exception. The certificate of service should give the opportunity to object to the certificate claiming an exemption.

Once a commercial tenant files a bankruptcy petition, it must assume or reject an unexpired lease that is executory and the landlord must pay all outstanding arrears and continue to pay the rent as it becomes due. If the bankruptcy court orders an exception, the tenant's right to continue its tenancy, in particular the tenant’s option: If a respondent fails to timely exercise a lease renewal option, Supreme Court may exercise the tenant’s right to continue its tenancy, in particular the tenant’s option.

The injunction, if granted, will stay the landlord from terminating the lease while the court determines whether a breach has occurred. Yellowstone injunction are heard in Supreme Court, which seems minor and inconsequential details are unimportant.

When a tenant is in possession of real property and the landlord is not limited to recovering a reserved rental under a lease or renewal thereof, the property may be re-let and the occupant is entitled to its use and occupation.

When an occupant was or is in possession of real property and the landlord is not limited to recovering a reserved rental under a lease or renewal thereof, the property may be re-let and the occupant is entitled to its use and occupation.

A. Ejection Actions
Continued from page 1
word, remarkable.”

Next up was President Woodland’s law partner and husband, Past President John Lonuzzis. Past President Lonuzzis opened his remarks with one of the funniest jokes I have ever heard in all my years of attending BBA events. It was too well received to repeat effectually herein, but the punch line involved one of the BBA’s favorite Justices, Hon. George Silver, and it brought down the house with laughter. He then went on to explain how Rebecca, not only as his wife and law partner, but also as the woman he married, has been a driving force behind his successful second career as a television personality (President of a successful law practice, but she does so while having a successful television career as well).

Theodore Jones and his family; John expressed his belief that, “today Ted Jones would have been just as proud of you as I am.” Certainly, it is no easy task to address a luminous crowd and speak about one’s wife and her accomplishments with objectivity, candor and style, but Past President Lonuzzis managed to do so eloquently. He expressed his appreciation for having Rebecca, not only as his wife and law partner, but also as the person to whom he has devoted much of his attention for the next twelve months.

Hon. Silver spoke next and said that President Woodland has vision and perspective that it will be a great year for the BBA. He praised our incoming President as being, “kind, intelligent, hard working and a good friend.” Hon. Chambers next related to the assembled that she met Rebecca Woodland eight years ago at the Kings County Inns of Court and described Rebecca as, “passionate about making a difference in the lives of the less fortunate.” Judge Chambers was certainly that President Woodland, at the end of her term, “will have made her mark and made a difference.” In addition to the induction of our new President, the evening also honored the newly installed Officers and Trustees. Hon. Cheryl Chambers inducted the following officers: Arthur L. Asdaila, Executive Director, Hon. Frank R. Sealby, First Vice President, Aimee L. Richter, Second Vice President, David M. Chakelik, Secretary and Hon. Frank V. Ciarrone, Treasurer. Judge Chambers also inducted the Trustees of the Class of 2017: Marjanne Buitama, Joseph R. Costello, Dewey Golkin, Herman J. Loer and Steven A. Filippazzo. Also inducted was Michael Farukas, Trustee Class of 2015.

The last to speak, after her induction by Judge Chambers, was our new President, Rebecca Rose Woodland. She first thanked Andrew M. Fallet for all his help over the past weeks in working with the transition. She thanked everyone on the dais and, in particular, her husband, and expressed that she is grateful to have him and appreciated for all the time she will miss from her law practice in carrying out her duties as the Association’s President. She thanked her parents and noted that her father, early in her career, urged her to join the Brooklyn Bar Association, “because there is no better way to learn and grow than to be active with those that are accomplished.” President Woodland stated that one of the goals of her presidency was to work through community outreach to diversify and noted that to further this goal she has scheduled meetings with the Brooklyn Borough President and General Counsel. Certainly, this is a laudable goal, different from the goals pursued by recent Past Presidents of the organization, and the Association as a whole should do everything it can to help our President with this task as any progress in this regard will shine an extremely positive light on our Association.

At the close of the ceremony, all retired to the Rotunda of the Borough Hall for food and drink. It was a wonderful evening and a great start to the Presidency of Rebecca Rose Woodland.

Rebecca Rose Woodland Inducted as The Ninetieth President of The BBA

New York State Commercial Landlord-Tenant Law—Part III

5 X 11 RPAPL 753(4).
See, e.g. Lasker v. 380 Lexchamp Operating, 26, 464 N.E.2d 125, 1237-28, 475 N.Y.S.2d 821, 823-24 (1984);
25 A.D.3d 440, 441, 772 N.Y.S.2d 4, 5 (1st Dep’t 2004);
121 A.D.2d 531, 503 N.Y.S.2d 842, 843 (2nd Dep’t 1980).
See Metropolis Transit Auth. v. 2Funky & Co., 4 Misc. 3d 655, 655 (App. Term 1st Dep’t 2004);
376 A.D.2d 701, 701 (App. Term 1st Dep’t 2010);
401 A.D.2d 234, 236-37, 763 N.Y.S.2d 266, 268-69 (1st Dep’t 2003).
121 A.D.2d 531, 503 N.Y.S.2d 842, 843 (2nd Dep’t 1980).
401 A.D.2d 234, 236-37, 763 N.Y.S.2d 266, 268-69 (1st Dep’t 2003).
ex ante 9.