

DECISION/ORDER

Recitation, as required by CPLR §2219 (a), of the papers considered in the review of this Motion:

MORRISANIA IV ASSOC.

Claimant(s)/Plaintiff(s)/Petitioner(s)
against
IMMANI DANIELS

Defendant(s)/Respondent(s)

Papers	Numbered
Notice of Motion and Affidavits Annexed.....	<u>1</u>
Order to Show Cause and Affidavits Annexed.....	_____
Answering Affidavits	<u>2</u>
Replying Affidavits.....	<u>3</u>
Exhibits	_____
Other.....	_____

Upon the foregoing cited papers, the Decision/Order on this Motion to see check /
dismiss is as follows:

Respondent's motion is granted to the following extent: In this case, it is undisputed that the criminal charges which ~~form~~ against the respondents within "red back" proceedings ~~to~~ were dismissed and their records sealed subsequent to the date which the district attorney disseminated the records to petitioner and directed commencement of legal proceedings against respondents, but prior to the date the proceedings was actually commenced in Housing Court.

As set forth in People v State of New York against Canalis ^{174 Misc 351} (1997) exceptions to rules requiring sealing of all records once a criminal case has been dismissed are limited and have been strictly construed.

Date _____

Judge, Civil Court

21203

Civil-Court of the City of New York

County of Bronx

Part F

Index Number 21203/14

Motion Cal. # _____ Motion Seq. # _____

DECISION/ORDER

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Papers Numbered

Notice of Motion and Affidavits Annexed..... _____

Order to Show Cause and Affidavits Annexed..... _____

Answering Affidavits _____

Replying Affidavits..... _____

Exhibits _____

Other..... _____

Morrisania IV Assocs

Claimant(s)/Plaintiff(s)/Petitioner(s)

against

IYMANNI BANFELS

Defendant(s)/Respondent(s)

Upon the foregoing cited papers, the Decision/Order on this Motion to _____

as set forth in the matter is as follows:
of application of NYCDAVS. Under
S. D. ^{NY 28400 NY 2005 J. Soloff} and exception to the sealing occurs
in ^{an} instance where records have
been disseminated and a Housing
Court proceeding commenced prior
to the sealing of records. This exception
occurs because ~~the~~ commencement of
the Housing Court proceeding renders
the documents a matter of public
record. ~~Therefore to appear in this~~
instance the records were sealed
and made inaccessible. It is not
the dissemination of the records to
a third party which renders them

Date

Judge, Civil Court

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Civil Court of the City of New York

County of Bronx

Part 2

Morrisania TV Assoc

Claimant(s)/Plaintiff(s)/Petitioner(s)
against

JYMANNI DANIELS

Defendant(s)/Respondent(s)

Index Number 21203/14

Motion Cal. # _____ Motion Seq. # _____

DECISION/ORDER

Recitation, as required by CPLR §2219 (a), of the papers considered in the review of this Motion:

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Notice of Motion and Affidavits Annexed.....	_____
Order to Show Cause and Affidavits Annexed.....	_____
Answering Affidavits	_____
Replying Affidavits.....	_____
Exhibits	_____
Other.....	_____

Upon the foregoing cited papers, the Decision/Order on this Motion to _____

is as follows:
is a matter of public record, but
rather than filing in court as exhibits
which form the basis for a to a Housing
court Petition. Based upon the
foregoing the motion to preclude
is granted. 5

Similarly, petitioner is precluded
from presenting evidence of
conduct not alleged in the notice
of Termination. A party is entitled
to notice as the basis of claims
which form the basis for a legal
action commenced against them so
that they have the ability to
formulate an adequate defense to those

Date

Judge, Civil Court

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Civil Court of the City of New York

County of Bronx

Part 7

Index Number 21203/14

Motion Cal. # _____ Motion Seq. # _____

DECISION/ORDER

Recitation, as required by CPLR §2219 (a), of the papers considered in the review of this Motion:

Papers	Numbered
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Order to Show Cause and Affidavits Annexed....	_____
Answering Affidavits	_____
Replying Affidavits.....	_____
Exhibits	_____
Other.....	_____

MORRISANIZ IV ASSOC

Claimant(s)/Plaintiff(s)/Petitioner(s)
against

DYMANNT DANFELS

Defendant(s)/Respondent(s)

Upon the foregoing cited papers, the Decision/Order on this Motion to _____

is as follows:

Claims. In this instance, a generalized statement relating to criminal activity not specifically alleged is insufficient ~~under the law to~~ support petitioner's claims and therefore petitioner is precluded from presenting additional evidence regarding same at trial.

The balance of the motion is denied. Petitioner is not precluded from presenting evidence ~~in any form~~ in the form of ~~the~~ witness testimony regarding the incident which forms

Date _____ Judge, Civil Court _____
the basis for this legal proceeding!

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Civil Court of the City of New York

County of Bronx

Part 7

Index Number 21 203/14
Motion Cal. # _____ Motion Seq. # _____

DECISION/ORDER

Recitation, as required by CPLR §2219 (a), of the papers considered in the review of this Motion:

Morrisonia IV Assocs
Claimant(s)/Plaintiff(s)/Petitioner(s)
against
IYMANNI DANIELS
Defendant(s)/Respondent(s)

Pages	Numbered
Notice of Motion and Affidavits Annexed.....	_____
Order to Show Cause and Affidavits Annexed....	_____
Answering Affidavits	_____
Replying Affidavits.....	_____
Exhibits	_____
Other.....	_____

~~Upon the foregoing cited papers, the Decision/Order on this Motion to~~

It is not inconsistent for petitioner to base the proceeding on ~~two~~ alternative causes of action. On a motion to dismiss the court need only determine whether the facts as stated are sufficient to support a cause of action. The issue of ^{whether} illegal use is ongoing and not an isolated ~~incident~~ act is to be decided at trial and substantial issues of fact exist which preclude dismissal.

Finally, the court finds that petitioner commenced the proceeding ~~within the statutory period prior to~~ the date the statute of limitations expired within one year from ~~the~~ September 26, 2013.

7/24/14

Judge, Civil Court
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