

339 Broadway Properties, LLC v.  
BistroMarketplace 339, Inc.  
N.Y.Sup.App.Term,2008.  
NOTE: THIS OPINION WILL NOT BE  
PUBLISHED IN A PRINTED VOLUME. THE  
DISPOSITION WILL APPEAR IN A REPORTER  
TABLE.

Supreme Court, Appellate Term, New York,  
First Department.  
339 BROADWAY PROPERTIES, LLC,  
Petitioner-Landlord-Respondent,  
v.  
BISTROMARKETPLACE 339, INC.,  
Respondent-Tenant-Appellant.  
No. 570067/08.

May 22, 2008.

Tenant appeals from an order of the Civil Court of the City of New York, New York County (Ernest J. [Cavallo, J.](#)), dated January 29, 2008, which denied its motion, inter alia, to vacate a stipulated judgment of possession issued in a holdover summary proceeding.

Present: McKEON, P.J., [DAVIS](#), [SCHOENFELD](#), JJ.

PER CURIAM.

\*1 Order (Ernest J. Cavallo, J.), dated January 29, 2008, affirmed, with \$10 costs.

The commercial tenant offered no valid excuse for its repeated failures to comply with the unambiguous, “time ... of the essence” payment provisions of the stipulations of settlement to which it assented upon advice of counsel. Thus, “good cause for vacating a warrant of eviction (*see* RPAL 749[1]), especially one issued pursuant to ... so-ordered stipulation[s], was absent as a matter of law” ([City of New York v. 130/40 Essex St. Dev. Corp.](#), 302 A.D.2d 292, 294 [2003]).

THIS CONSTITUTES THE DECISION AND ORDER OF THE COURT.

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339, Inc.

Slip Copy, 19 Misc.3d 141(A), 2008 WL 2152401  
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