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3 315 WEST 94TH STREET REALTY INDEX NO.  
CORP, 099393/03

4 Petitioner, VERDICT

5 vs.

6 GERMAN CHAVEZ 315 WEST 94TH  
7 STREET #722, N.Y. N.Y. 10025,

8 Respondent-Tenant,

9 "JOHN DOE" and/or "JANE DOE",

10 Respondent-Undertenant,  
- - - - -

11 DATED: June 29, 2004  
12 111 Centre Street  
New York, New York 10013

13 B E F O R E:

14 THE HONORABLE PETER MOULTON  
15 JUDGE OF CIVIL COURT

16 A P P E A R A N C E S:

17 Attorney for the Petitioner:  
ADAM LEITMAN BAILEY, P.C.  
18 26 Broadway, 21st. Floor  
New York, New York 10004

19 Attorney for the Respondent:  
WESTSIDE SRO LAW PROJECT  
20 Goddard-Riverside Community Center  
647 Columbus Avenue  
21 New York, New York 10025  
22 BY: ADAM WEINSTEIN, ESQ.  
STACEY SARVER, ESQ.

23 A L S O P R E S E N T:  
24 MARIA ABREU and ISADORA POWERS - Official Spanish  
Interpreter

25 MAUREEN POSTEL  
OFFICIAL COURT REPORTER

1 THE OFFICER: Jury entering.

2 (Whereupon, the jury enters the  
3 courtroom.)

4 THE COURT: Members of the jury, my  
5 understanding is that you have reached a  
6 verdict; is that correct?

7 May I have a verdict sheet, please?

8 Okay, reading question number 1, quote

9 "Did the tenant prove that conditions

9                   DID THE TENANT PROVE THAT CONDITIONS  
10                   existed in the tenant's room or the common  
11                   areas of the building at any time from  
12                   January 25, 1999 to the present, which are or  
13                   were dangerous, hazardous or detrimental to  
14                   the life, health or safety of Mr. Chavez or  
15                   that such conditions to rent the apartment as  
16                   not fit to live in or not fit for the uses  
17                   reasonably intended by the landlord and  
18                   tenant?"

19                   At least, five jurors must agree to the  
20                   answer of this question. And it is signed by  
21                   all six jurors. And it says "no".

22                   Juror number one, is that your  
23                   verdict?

24                   JUROR: Yes.

25                   THE COURT: Juror number two, is that

1                   your verdict? 3

2                   JUROR: Yes.

3                   THE COURT: Juror number three, is that  
4                   your verdict?

5                   JUROR: Yes.

6                   THE COURT: Juror number four, is that  
7                   your verdict?

8                   JUROR: Yes.

9                   THE COURT: Juror number five, is that  
10                  your verdict?

11                  JUROR: Yes.

12                  THE COURT: Juror number six, is that  
13                  your verdict?

14                  JUROR: Yes.

15                  THE COURT: Let the record reflect that  
16                  all the jurors affirm that this is their  
17                  verdict.

18 Jurors, okay, the verdict sheet  
19 directed you to come to inform the Court that  
20 this was your decision. It probably should  
21 have directed you to question four.

22 Counsel, because question four is the  
23 question that sets forth the verdict -- the  
24 amount of the verdict, but I think, Counsel,  
25 if you'll step up to sidebar we can deal with

1 this. 4

2 Please stay in your seats.

3 (Discussion off the record.)

4 THE COURT: I invited the jury's  
5 verdict. In light of the jury's verdict do  
6 the parties stipulate that the effect of the  
7 verdict is defined that the tenant owes the  
8 landlord 3,771 dollars? Do you so stipulate,  
9 Respondent, without prejudice to a motion  
10 notwithstanding the verdict?

11 MR. WEINSTEIN: Yes.

12 THE COURT: And do you so stipulate for  
13 the Petitioner?

14 MR. BAILEY: Yes.

15 THE COURT: Okay, thank you, members of  
16 the jury, your verdict completes your service  
17 in this case. On behalf of the judicial  
18 service of this State I thank you for that  
19 service.

20 Before you leave the courtroom,  
21 however, I want to inform you that you don't  
22 have to answer questions about the case by  
23 anyone other than me. The public interest  
24 requires that each of you be free to express  
25 your views without fear of what others may

1 think. Although you're not required to  
2 maintain secrecy, you should keep that in  
3 mind before discussing the case with anyone.  
4 On the other hand, it's always useful for  
5 trial lawyers to hear what a jury thought  
6 about the case and about their presentation  
7 of the case. And so, frequently, the lawyers  
8 would love to speak to jurors and get a  
9 juror's perspective of what happened at  
10 trial. But, as I said, you're not required  
11 to talk to the lawyers, but you are excused.  
12 And I thank you for your service.

13 (Whereupon, the jury is excused.)

14 (Whereupon, a recess is taken.)

15 THE COURT: Okay, I'm going to write up  
16 a judgement in the amount of 3,771 dollars.  
17 I'll stay the eviction for five days, which I  
18 think is what I'm allowed to do under the  
19 statute. Frank, my law clerk, is bringing  
20 down the form right now. So I'll sign it  
21 today, but do you have a --

22 MR. WEINSTEIN: We'd like to make a  
23 motion for judgement notwithstanding the  
24 verdict. We believe that there were  
25 conditions that were proved to be a breach of

1 warranty of habitability. There was some  
2 notice that was proved, at least, notice for  
3 some of the things that were proved, as well.  
4 And we believe that there should have been  
5 some portion of an abatement that should have  
6 been given. We think that the fact that the  
7 jury didn't reach the other questions in the

7  
8 jury didn't reach the other questions in the  
9 jury verdict sheet, and did not even find  
10 that there were any conditions that were to  
11 the detriment of the health, life and safety  
12 of the tenant shows that they did not  
13 appreciate all the evidence in the case and  
14 that there should be a judgement  
15 notwithstanding a verdict of an abatement of  
16 some amount, which I will allow the Court to  
17 determine.

18 THE COURT: Thank you, Mr. Weinstein,  
19 motion is denied.

20 Is there anything else you need to put  
21 on the record?

22 MR. WEINSTEIN: Nothing else.

23 MR. BAILEY: Your Honor, when would  
24 the next time would rent be due?

25 THE COURT: I would not opine on that  
issue.

1 MR. WEINSTEIN: Well, the judgement is <sup>7</sup>  
2 through July 24th of 2004.

3 THE COURT: That's my understanding.

4 (Whereupon, the witness is excused.)

5 (Whereupon, the proceedings are  
6 adjourned.)

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C E R T I F I C A T E

I DO HEREBY CERTIFY that the foregoing is a  
true and accurate transcription of my stenographic  
notes.

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Maureen Postel

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