

Moore v JCA LLC 3

2026 NY Slip Op 30980(U)

March 6, 2026

Supreme Court, New York County

Docket Number: Index No. 150666/2025

Judge: James G. Clynes

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. JAMES G. CLYNES PART 39M

Justice

-----X

GREGORY MOORE,

Plaintiff,

- v -

JCA LLC 3, L & S PROPERTIES 3 LLC, 703 LENOX, LLC,

Defendant.

-----X

L & S PROPERTIES 3 LLC

Plaintiff,

-against-

PJ NE HARLEM, INC

Defendant.

-----X

INDEX NO. 150666/2025
MOTION DATE 01/30/2026
MOTION SEQ. NO. 002

DECISION + ORDER ON MOTION

Third-Party
Index No. 596124/2025

The following e-filed documents, listed by NYSCEF document number (Motion 002) 25, 26, 27, 28, 29 were read on this motion to/for AMEND CAPTION/PLEADINGS

Upon the foregoing documents, it is ordered that plaintiff's motion pursuant to CPLR 3025 for an Order granting plaintiff leave to amend the complaint adding PJ NE HARLEM, INC. as a direct defendant and deem the amended summons and complaint served nun pro tunc on all appearing defendants is granted without opposition.

The court notes that defendant L & S PROPERTIES 3 LLC answered in a timely manner and thus plaintiff is not seeking relief against the sole answering defendant. Accordingly, the Court's discussion and decision and order generally does not reference L & S PROPERTIES 3 LLC.

Plaintiff seeks recovery for a personal injury that occurred on December 23, 2024, as a result of tripping and falling because of an alleged defective and uneven sidewalk in front of 703 Lenox Avenue, New York, NY. Plaintiff contends both JCA LLC 3 and 703 LENOX, LLC had an ownership interest in the property where plaintiff was injured. It was through L & S

PROPERTIES 3 LLC Third-Party complaint against PJ NE HARLEM, INC. that plaintiff learned PJ NE HARLEM, INC. is a tenant for a restaurant located at 701-703 Lenox Avenue, New York, NY who is alleged to have breached their duties which caused the injuries to plaintiff.

AMENDING THE CAPTION ADDING PJ NE HARLEM, INC. AS A DIRECT DEFENDANT

Pursuant to CPLR 3025(b), “[a] party may amend his pleading, or supplement it by setting forth additional or subsequent transactions or occurrences, at any time by leave of court or by stipulation of all parties.” Leave to amend pleadings is generally freely granted, absent prejudice and surprise resulting from the delay. *See Edenwald Contr. Co. v City of New York*, 60 NY2d 957, 959 (1983); *Antwerpse Diamantbank N.V. v Nissel*, 27 AD3d 207, 208 (1st Dept 2006). To find prejudice, there must be some indication that the defendant has been hindered in the preparation of his case or prevented from taking some measure in support of his position. *See Abdelnabi v NYC Transit Authority*, 273 AD2d 114, 115 (1st Dept 2000).

Here, plaintiff’s motion to amend the complaint to add PJ NE HARLEM, INC. as a direct defendant will not result in prejudice or surprise resulting from the delay.

Therefore, plaintiff’s motion to amend the complaint to add dd PJ NE HARLEM, INC. as a direct defendant is granted.

DEEMING THE AMENDED SUMMONS AND COMPLAINT SERVED NUNC PRO TUNC

Pursuant to CPLR 306-b Service of the summons and complaint, summons with notice, Third-Party summons and complaint, or petition with a notice of petition or order to show cause shall be made within one hundred twenty days after the commencement of the action or proceeding, provided that in an action or proceeding, except a proceeding commenced under the election law, where the applicable statute of limitations is four months or less, service shall be made not later than fifteen days after the date on which the applicable statute of limitations expires. If service is not made upon a defendant within the time provided in this section, the court, upon motion, shall dismiss the action without prejudice as to that defendant, or upon good cause shown or in the interest of justice, extend the time for service.

Here, the Court finds that there is no undue burden to the defendants in granting an extension, nor will an extension result in undue prejudice to defendant.

Therefore, plaintiff's motion deeming the amended summons and complaint served upon the defendants nunc pro tunc is granted without opposition. Accordingly, it is further

ORDERED that the motion by plaintiff for leave to amend the complaint to add PJ NE HARLEM, INC., as a direct defendant is granted; and it is further

ORDERED that the amended caption, complaint and title, in the form annexed to the motion papers, shall be deemed served upon service of a copy of this order with notice of entry upon the defendant; and it is further

ORDERED that the action shall bear the following caption:

SUPREME COURT STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
GREGORY MOORE,

Index No.: 150666/2025

Plaintiff,

-against-

JCA LLC 3, L & S PROPERTIES 3 LLC, 703 LENOX, LLC
And PJ NE HARLEM, INC.,

Defendant.

-----X
L & S PROPERTIES 3 LLC

Third-Party Plaintiff,

-against-

PJ NE HARLEM, INC.,

Third-Party Defendant,

-----X

And it is further

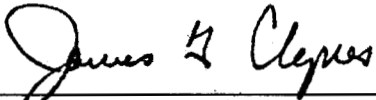
ORDERED that plaintiff's amended complaint is deemed served upon all appearing defendants; and it is further

ORDERED that counsel for the moving party shall serve a copy of this order with notice of entry upon the County Clerk and the Clerk of the General Clerk's Office, who are directed to mark the court's records to reflect the amended pleadings; and it is further

ORDERED that such service upon the County Clerk and the Clerk of the General Clerk's Office shall be made in accordance with the procedures set forth in the *Protocol on*

Courthouse and County Clerk Procedures for Electronically Filed Cases (accessible at the “E-Filing” page on the court’s website).

This constitutes the Decision and Order of the Court.

<u>3/6/2026</u> DATE			 JAMES G. CLYNES, J.S.C.
CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/> NON-FINAL DISPOSITION
	<input checked="" type="checkbox"/>	GRANTED	<input type="checkbox"/> GRANTED IN PART
APPLICATION:		<input type="checkbox"/> DENIED	<input type="checkbox"/> OTHER
	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/> SUBMIT ORDER
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/> FIDUCIARY APPOINTMENT
			<input type="checkbox"/> REFERENCE