

Nunez v City of New York
2026 NY Slip Op 31160(U)
March 20, 2026
Supreme Court, New York County
Docket Number: Index No. 161421/2024
Judge: Richard Tsai
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**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. RICHARD TSAI PART 21

Justice

-----X

MIRTHA NUNEZ,

Plaintiff,

- v -

THE CITY OF NEW YORK, NEW YORK CITY TRANSIT
AUTHORITY, METROPOLITAN TRANSPORTATION
AUTHORITY, NEW YORK CITY LODGE OF THE ANCIENT
AND MYSTICAL ORDER ROSAE CRUCIS, INC., THE
GRAND LODGE OF THE ENGLISH LANGUAGE
JURISDICTION OF THE ANCIENT AND MYSTICAL
ORDER ROSAE CRUCIS, BUILDING EQUITY
MANAGEMENT LLC., OTHENTIC LUXURY HAIR, LLC, and
CONSOLIDATED EDISON COMPANY OF NEW YORK,
INC.,

Defendants.

-----X

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

Third-Party Plaintiff,

-against-

C.A.C. INDUSTRIES INC.

Third-Party Defendant.

-----X

**DECISION + ORDER ON
MOTION**

Third-Party
Index No. 595318/2026

The following e-filed documents, listed by NYSCEF document numbers (Motion 005) 85 - 91
were read on this motion to/for AMEND CAPTION/PLEADINGS.

In this trip and fall action, plaintiff Mirtha Nunez alleges that, on May 29, 2024,
she tripped and fell while traversing the sidewalk in front of 2305 Adam Clayton Powell
Boulevard, near the M2 bus stop at 135th Street (Bus Shelter MN0316) (see NYSCEF
Doc. No. 58, amended complaint ¶¶ 26, 109).

Plaintiff now moves for leave to amend the complaint to add Harlem Property
Management, Inc. as a defendant. Plaintiff's motion is unopposed.

DISCUSSION

CPLR3025 (b) provides that a party may amend its pleadings "at any time by leave of [the] court," which "shall be freely given upon such terms as maybe just". It further provides that "[a]ny motion to amend or supplement pleadings shall be accompanied by the proposed amended or supplemental pleading clearly showing the changes or additions to be made to the pleading" (*id.*)

"As a general rule, leave to amend a pleading should be freely granted in the absence of prejudice to the nonmoving party where the amendment is not patently lacking in merit . . . , and the decision whether to grant leave to amend a complaint is committed to the sound discretion of the court" (*Davis v South Nassau Communities Hosp.*, 26 NY3d 563, 580 [2015] [internal quotation marks omitted]; see also *Y.A. v Conair Corp.*, 154 AD3d 611 [1st Dept 2017] [holding that leave should be granted "absent . . . surprise resulting therefrom"]). "[P]laintiff need not establish the merit of its proposed new allegations, but simply show that the proffered amendment is not palpably insufficient or clearly devoid of merit" (*MBIA Ins. Corp. v Greystone & Co., Inc.*, 74 AD3d 499, 500 [1st Dept 2010]).

Here, according to plaintiff's counsel, Michale Vinocor from Building Equity Management, LLC advised him that, shortly before plaintiff's alleged trip and fall, Harlem Property Management, Inc. took over as the property manager for the building located at 2305 Adam Clayton Powell Boulevard (plaintiff's counsel's affirmation in support of motion [NYSCEF Doc. No. 86] ¶ 6). As the proposed amended complaint is not patently lacking in merit, and there is no opposition to the motion, leave to amend is granted.

CONCLUSION & ORDER

It is hereby **ORDERED** that plaintiff's motion seeking leave to amend the Summons and Complaint to add Harlem Property Management, Inc. as defendant is **GRANTED** without opposition; and it is further

ORDERED that the proposed amended verified complaint annexed to the papers as Exhibit D (NYSCEF Doc. No. 90) is deemed served upon the defendants who have appeared in this action, upon service of a copy of this order with notice of entry; and it is further

ORDERED that the defendants who have appeared in this action, shall each serve a verified answer to the amended complaint or otherwise respond thereto within 20 days from the date of said service; and it is further

ORDERED that a supplemental summons and amended complaint, the latter being in the form annexed to the motion papers, as Exhibit D (NYSCEF Doc. No. 90), shall be served, in accordance with the Civil Practice Law and Rules, upon the

additional parties in this action within 30 days after service of a copy of this order with notice of entry; and it is further

ORDERED that the caption is amended to read as follows:

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK**

=====X
MIRTHA NUNEZ,

Plaintiff,

-against-

**THE CITY OF NEW YORK,
NEW YORK CITY TRANSIT AUTHORITY,
METROPOLITAN TRANSPORTATION AUTHORITY,
NEW YORK CITY LODGE OF THE ANCIENT AND
MYSTICAL ORDER ROSAE CRUCIS, INC.,
THE GRAND LODGE OF THE ENGLISH LANGUAGE
JURISDICTION OF THE ANCIENT AND MYSTICAL
ORDER ROSAE CRUCIS, BUILDING EQUITY
MANAGEMENT LLC., OTHENTIC LUXURY
HAIR, LLC., CONSOLIDATED EDISON
COMPANY OF NEW YORK, INC.
and HARLEM PROPERTY MANAGEMENT, INC.**

Defendants
=====X

and it is further

ORDERED that counsel for plaintiff 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 amend their records to reflect such change in the caption herein; and it is further

ORDERED that 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 Section J of the *Protocol on Courthouse and County Clerk Procedures for Electronically Filed*

Cases¹ (accessible at the “E-Filing” page on the court’s website at <https://www.nycourts.gov/LegacyPDFS/courts/1jd/supctmanh/Efil-protocol.pdf>).

Furthermore, counsel for the parties are reminded that this matter is scheduled for a status conference on **May 14, 2026, at 10:30 a.m.** before this court (Part 21) in courtroom **280** at 80 Centre Street, New York, NY.

ENTER:



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3/20/2026

DATE

RICHARD TSAI, 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
			<input type="checkbox"/>	OTHER
APPLICATION:	<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

¹ Pursuant to Section J, in order for the Clerk of the General Clerk’s Office to effectuate this order, the movant must e-file a copy of the order “using the NYSCEF document type ‘Service on Supreme Court Clerk (Genl. Clerk) w/Copy of Order’” and the filer must provide “as additional information (in the ‘Additional Document Information’ field) a brief description of the type of order being submitted (e.g., ‘Order of Consolidation’ . . .)” (*id.*).

Likewise, pursuant Section J, in order for the County Clerk to effectuate this order, the movant must serve a copy of this order on the County Clerk “by filing with NYSCEF a completed Notice to the County Clerk - CPLR § 8019 (c) (NYSCEF Form EF-22, available on the NYSCEF site)” (*id.*)