

**Firmes v Chase Manhattan Automotive Finance Corp.**

2005 NY Slip Op 30185(U)

August 29, 2005

Supreme Court, Nassau County

Docket Number: 6655-03/

Judge: R. Bruce Cozzens

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SHORT FORM ORDER

SUPREME COURT - STATE OF NEW YORK

PRESENT: HON. R. BRUCE COZZENS, JR.  
Justice.

TRIAL/IAS PART 14  
NASSAU COUNTY

JUSTIN FIRMES,

Plaintiff(s),

-against-

CHASE MANHATTAN AUTOMOTIVE FINANCE  
CORP., CHRISTOPHER TIETJEN and C.P. TIETJEN,  
Defendant(s).

MOTION #004, 005  
INDEX#16655/2002  
MOTION DATE:  
July 13, 2005

The following papers read on this motion:

Notice of Motion.....	1
Cross Motion.....	1
Answering Affidavits.....	4
Reply Affidavits.....	

The defendant Chase Manhattan Automotive Finance Corp. ("Chase") moves and the defendants Christopher Tietjen and C.P. Tietjen ("Tietjen") cross-move for an Order pursuant to CPLR 2221 [d] granting reargument of that portion of this Court's decision of June 2, 2005, which denied their motion for a collateral source hearing and an offset pursuant to CPLR 4545 for the judgment entered after a jury trial. Defendants Tietjen further cross-move to set aside the verdict because documents were improperly added to the Court record. Plaintiff Justin Firmes ("Firmes") opposes the motion and cross-motion.

The motion and cross-motion for reargument are granted.

Upon review of the prior decision, this Court adheres to its prior decision on the issue of the collateral source offset. The basis for this ruling is that a hearing to determine any amount of offset is untimely if not made before judgment is entered. *Wooten v State*, 302 AD2d 70, 753 NYS2d 266 [4th Dept., 2002]. Furthermore, extensive discussions were conducted between all counsel and the Court leading up to the agreement to enter the judgment in the form which was ultimately signed by the Court. Therefore, the issue of proper pleading of an affirmative defense is moot.

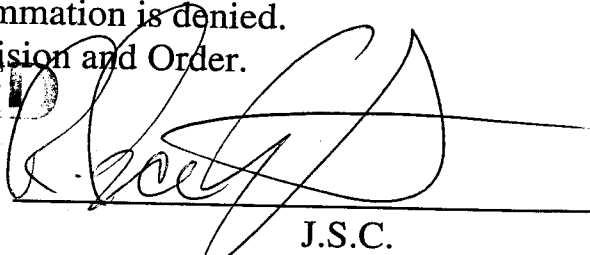
Tietjen's motion upon reargument to set aside the verdict because documents were added to the evidence after he concluded his summation is denied.

The foregoing constitutes the Court's Decision and Order.

ENTERED

Dated: AUG 29 2005

SEP 08 2005



J.S.C.

NASSAU COUNTY  
COUNTY CLERK'S OFFICE