Laughlin v Metropolitan Trans. Auth.
2014 NY Slip Op 30281(U)
January 29, 2014
Supreme Court, New York County
Docket Number: 160255/2013
Judge: Eileen A. Rakower
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SUPREME COURT OF THE STATE OF NEW YORK – NEW YORK COUNTY

PRESENT: RAKOWER PART 15
Justice

LAUGHLIN, EUNICE C.

INDEX NO. 160255/13

MOTION DATE

- v -

MOTION SEQ. NO. 01

METROPOLITAN TRANSIT AUTHORITY, ET AL.

MOTION CAL. NO.

The following papers, numbered 1 to ___ were read on this motion to/for ___

	PAPERS NUMBERED
Notice of Motion/ Order to Show Cause – Affidavits – Exhibits ...	1
Answering Affidavits – Exhibits	2
Replying Affidavits	3

Cross-Motion: ☐ Yes ☐ No

Upon the foregoing papers, it is ordered that this motion

DECIDED IN ACCORDANCE WITH ACCOMPANYING DECISION / ORDER

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE FOR THE FOLLOWING REASON(S):

Dated: 1/29/14

HON. EILEEN A. RAKOWER J.S.C.

Check one: ☐ FINAL DISPOSITION ☒ NON-FINAL DISPOSITION

Check if appropriate: ☐ DO NOT POST ☐ REFERENCE

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: PART 15

---X

EUNICE C. LAUGHLIN,

Plaintiff,

Index No. 160255/2013

- against -

DECISION/ ORDER

Mot. Seq. 01

METROPOLITAN TRANSPORTATION AUTHORITY, MTA METRONORTH RAILROAD, and JANE DOE, a fictitious name, intending the train staffer closing train doors at Scarsdale 10/06/12 about 3:46 pm,

Defendants.

---X

HON. EILEEN A. RAKOWER, J.

This is an action for personal injuries that Plaintiff, Eunice C. Laughlin ("Plaintiff" or "Ms. Laughlin), claims to have sustained on October 6, 2012, her 77th birthday, when the doors of the first car of the 3:47 p.m. train out of Scarsdale allegedly closed while Ms. Laughlin was in the doorway, boarding the train. Plaintiff claims to have reported the subject incident to defendant, Metro-North Railroad ("Metro-North"), by letter dated November 4, 2012, and asserts that defendants, Metropolitan Transportation Authority ("MTA"), a New York Public Authority, and its subsidiary, Metro-North, (collectively, "Defendants"), had actual knowledge of Plaintiff's claim, even though Plaintiff failed to file a timely notice of claim.

Plaintiff now moves, by order to show cause, for an Order granting Plaintiff leave to file a late notice of claim *nunc pro tunc* to November 5, 2012, pursuant to § 50-e(5) of the General Municipal Law.

Defendants oppose.

"The Metropolitan Transportation Authority and its subsidiaries must be sued separately, and are not responsible for each other's torts." (*Mayayev v. Metropolitan Transp. Auth. Bus*, 74 A.D.3d 910, 911 [2d Dep't 2010]; N.Y. Pub. Auth. Law § 1266[5]).

In order to maintain an action for personal injuries against the MTA, a notice of claim must be served upon the authority within 90 days of the time when the claim founded on tort accrues. (N.Y. Pub. Auth. Law 1276[2]; N.Y. Gen. Mun. § 50-e [1]).

General Municipal Law § 50-e(5) permits a court, in its discretion, to extend the time to serve a notice of claim, within certain parameters. (N.Y. Gen. Mun. § 50-e[5]; *Matter of Nieves v. New York Health & Hosps. Corp.*, 34 A.D.3d 336, 337 [1st Dep't 2006]). However, a court may not entertain an application to serve a late notice of claim where such a request is filed after the applicable statute of limitations has expired. (*Hall v. City of New York*, 1 AD3d 254 [1st Dep't 2003]).

Public Authorities Law § 1276(2) provides, in relevant part, "[a]n action against the authority founded on tort . . . shall not be commenced more than one year after the cause of action therefor shall have accrued." This one-year statute of limitations may be tolled for thirty days, provided that a demand has been served upon the authority, whereby the "claim or claims upon which the action is founded were presented to the authority or other officer designated for such purpose and that the authority has neglected or refused to make an adjustment or payment thereof." (N.Y. Pub. Auth. Law § 1276[1]; *Burgess v. Long Island R. Authority*, 79 N.Y.2d 777 [1991]).

Public Authorities Law § 1276(6) further provides, in relevant part, "the provisions of this section which relate to the requirement for service of a notice of claim shall not apply to a subsidiary corporation of the authority. In all other respects, each subsidiary corporation of the authority shall be subject to the provisions of this section . . . ".

In certain circumstances, a detailed letter may constitute the requisite demand, for purposes of tolling the time to commence an action or the time within which to move to serve a late notice of claim. *Stampf v. Metropolitan Transp. Auth.*, 57 A.D.3d 222, 222 [1st Dep't 2008]).

Plaintiff argues that this action is timely brought, and the instant motion for leave to serve a late notice of claim timely filed, because Ms. Laughlin reported the subject incident to Metro-North by letter dated November 4, 2012. As a result, Plaintiff contends, the one-year statute of limitations was tolled, giving Plaintiff up to one year and thirty days after her claim accrued to serve her complaint against Defendants, and to move to serve a late notice of claim.

Defendants, in turn, argue that Plaintiff's letter does not satisfy the statutory demand requirement because the letter is insufficient to provide defendants with actual knowledge of Plaintiff's claim, rather than mere general knowledge that a wrong was committed. Additionally, Defendants argue that even if Plaintiff's letter satisfies the statutory demand requirement respecting Metro-North, service of a demand letter on Metro-North is ineffective as against the MTA, because the MTA and a subsidiary corporation of the MTA are distinct legal entities for purposes of a suit.

Here, Plaintiff's tort cause of action accrued on October 6, 2012. Plaintiff filed a summons with notice on November 5, 2013, and filed a motion for leave to serve a late notice of claim on November 7, 2013. It is undisputed that Plaintiff sent a letter, dated November 4, 2012, to defendant, Metro-North. Plaintiff's letter provides a detailed description of the subject incident, including the date and time that the incident allegedly occurred, and contains a comprehensive account of Plaintiff's purported injuries and associated medical treatment. In addition, Plaintiff's letter encloses the police report relating to the subject event.

Plaintiff's detailed letter is sufficient to constitute the requisite demand on Metro-North. (*Stampf v. Metropolitan Transp. Auth.*, 57 A.D.3d 222, 223 [1st Dep't 2008]). Therefore, the one-year statute of limitations was tolled with respect to Plaintiff's personal injury action against Metro-North, giving Plaintiff up to one year and thirty days after her claim accrued to serve her complaint against defendant, Metro-North. Additionally, "[t]here is no requirement that a notice of claim be served upon . . . a subsidiary of the MTA . . . " (*Stampf v. Metropolitan Transp. Auth.*, 57 A.D.3d 222, 222 [1st Dep't 2008]; N.Y. Pub. A. § 1276[6]).

However, the MTA is a distinct legal entity from Metro-North, for purposes of a suit. (N.Y. Pub. Auth. Law 1266[5]; *Montez v. Metropolitan Transp. Auth.*, 43 A.D.2d 224, 225 [1st Dep't 1974]). Accordingly, "service of [Plaintiff's]

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demand letter on [Metro-North] was ineffective to toll either the time to commence her action or the time within which to move to serve a late notice of claim on the MTA." (*Stampf*, 57A.D.3d at 223). Plaintiff's application for leave to serve a late notice of claim was filed on November 7, 2013, more than one year after October 6, 2012, when Plaintiff's cause of action accrued. As such, this application was filed after the applicable statute of limitations had expired, and cannot now be entertained.

Wherefore it is hereby,

ORDERED that Plaintiff's motion for Order, pursuant to § 50-e(5) of the General Municipal Law, granting Plaintiff leave to file a late notice of claim is denied.

This constitutes the decision and order of the Court. All other relief requested is denied.

Dated: JANUARY 29, 2013

HON. EILEEN A. RAKOWER
J.S.C