

Daniels v New York City Tr. Auth.

2019 NY Slip Op 32151(U)

July 18, 2019

Supreme Court, New York County

Docket Number: 154454/2017

Judge: Lisa A. Sokoloff

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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. LISA ANN SOKOLOFF PART IAS MOTION 21EFM

Justice

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INDEX NO. 154454/2017

NASHIMA DANIELS, MOHAMED SANOH,

MOTION DATE 05/20/2019

Plaintiff,

MOTION SEQ. NO. 003

- v -

NEW YORK CITY TRANSIT AUTHORITY, MTA, MTA BUS
COMPANY, MATTHEW BROWN,

DECISION AND ORDER

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 003) 40, 41, 42
were read on this motion to/for AMEND CAPTION/PLEADINGS.

Plaintiff Nashima Daniels moves to amend her summons and complaint to implead Highline Service, LLC and Mohamed Sanoh, third-party defendants in the third-party action brought by the New York City Transit Authority. All parties concede that the statute of limitations has not run and that Daniels, a passenger in the Sanoh vehicle, is entitled to seek relief from the host vehicle.

The only problem arises from the consolidation of the Daniels and Sanoh actions on November 8, 2018 by order of this court, which was not mentioned in the procedural history of the motion and was omitted from the caption of the moving papers.

In light of this current motion, it is in the best interests of all concerned to undo the consolidation and to instead join the newly separated actions for discovery and trial.

Therefore, upon the foregoing documents, it is

ORDERED that the two actions consolidated by order dated 11/8/2018 are hereby separated and reassigned their prior index numbers; and it is further

ORDERED that the caption under Index No. 154454/2017 shall now read:

Nashima Daniels, Plaintiff,

-against-

New York City Transit Authority, Matthew Brown,

Defendants

New York City Transit Authority, Third-Party Plaintiff

-against-

Highline, Service, LLC and Mohamed Sanoh, Third-Party Defendants

And it is further

ORDERED that Index No. 450545/2018 shall now be restored and the caption under Index No. 450545/2018 shall now read:

Mohamed Sanoh, Plaintiff,

-against-

NYCTA, MTA, MTA Bus Company and Matthew A. Brown,

Defendants

New York City Transit Authority, Third-Party Plaintiff

-against-

Highline, Service, LLC, Third-Party Defendant

And it is further

ORDERED that the pleadings in the formally consolidated action shall stand as the pleadings in the now separated actions; and it is further

ORDERED that the third-party complaint of the NYCTA against Mohamed Sanoh shall convert to a counter claim; and it is further

ORDERED, that the two separated actions now be joined for purposes of discovery and trial; and it is further

ORDERED that, within 30 days from entry of this order, movant shall serve a copy of this order with notice of entry on the Clerk of the Court (60 Centre Street, Room 141 B), who shall separate the actions and note that they are joined for discovery and trial; and it is further

ORDERED that counsel for the movant shall contact the staff of the Clerk of the Court to arrange for the effectuation of the separation and new joinder hereby directed; and it is further

ORDERED that service of this order upon the Clerk of the Court shall be made in hard-copy format if this action is a hard-copy matter or, if it is an e-filed case, 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 at the address www.nycourts.gov/supctmanh); and it is further

ORDERED that, as applicable and insofar as is practical, the Clerk of this Court shall separate the documents from the formally consolidated action into two separate under the appropriate index numbers in the New York State Courts Electronic Filing System or make appropriate notations of such documents in the e-filing records of the court so as to ensure access to the documents in the now separated but joined actions; and it is further

ORDERED that, within 30 days from entry of this order, movant shall serve a copy of this order with notice of entry on the Clerk of the General Clerk's Office (60 Centre Street, Room 119), who is hereby directed to reflect the new status of the actions by appropriately marking the court's records; and it is further

ORDERED that such service upon the Clerk of the General Clerk's Office shall be made in hard-copy format if this action is a hard-copy matter or, if it is an e-filed case, shall be made in accordance with the procedures set forth in the aforesaid *Protocol*; and it is further

ORDERED that plaintiff Daniels has thirty days from service of notice of entry of this order, to e-file and serve the proposed amended summons and complaint in action under Index Number 154454/2017; and it is further

ORDERED that counsel are directed to appear for a status conference in Room 279, 80 Centre Street, New York, New York, on October 31, 2019, at 9:30 AM/PM.

7/18/2019
DATE

LISA ANN SOKOLOFF, J.S.C.

CHECK ONE: CASE DISPOSED NON-FINAL DISPOSITION

APPLICATION: GRANTED DENIED GRANTED IN PART OTHER

CHECK IF APPROPRIATE: SETTLE ORDER SUBMIT ORDER

INCLUDES TRANSFER/REASSIGN FIDUCIARY APPOINTMENT REFERENCE