

Mejia v 770 Broadway Owner, LLC
2019 NY Slip Op 32879(U)
September 27, 2019
Supreme Court, New York County
Docket Number: 160479/2016
Judge: Arlene P. Bluth
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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. ARLENE P. BLUTH

PART

IAS MOTION 32

Justice

-----X

PEDRO MEJIA,

Plaintiff,

- v -

770 BROADWAY OWNER, LLC, QUEST BUILDERS
GROUP, INC., LHOTSE CONTRACTING CORP., LHOTSE
CORP., AVALANCHE CONSTRUCTION GROUP INC.,

Defendants.

-----X

LHOTSE CORP.

Third-Party Plaintiff,

-against-

ROCK GROUP NY CORP.,

Third-Party Defendant.

-----X

DECISION + ORDER ON
MOTION

Third-Party
Index No. 595346/2017

The following e-filed documents, listed by NYSCEF document number (Motion 002) 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182

were read on this motion to/for

AMEND CAPTION/PLEADINGS

Background

In this labor law case, plaintiff brings this motion for leave to serve an amended complaint to add New M&M Group, Inc. and RB NY Enterprises Inc as direct defendants; based upon a second third party complaint against them and their answer, plaintiff believes that they may be the construction manager or the general contractor in charge of the construction project where plaintiff claims he was injured. No party offers opposition.

Discussion

“Leave to amend a pleading should be freely given as a matter of discretion in the absence of prejudice or surprise, although to conserve judicial resources, examination of the underlying merit of the proposed amendment is mandated. Therefore a motion for leave to amend a pleading must be supported by an affidavit of merits and evidentiary proof that could be considered upon a motion for summary judgment” (*Zaid Theatre Corp. v Sona Realty Co.*, 18 AD3d 352, 354-55, 797 NYS2d 434 [1st Dept 2005] [internal quotations and citations omitted]).

Upon reading the Affirmation in Support of the Motion (NYSCEF Doc. No. 152) and the Proposed Second Amended Verified Complaint (NYSCEF Doc. No. 181), it is hereby

ORDERED that the plaintiff’s motion for leave to amend the complaint to add New M&M Group, Inc. and RB NY Enterprises Inc as defendants is granted without opposition; and it is further

ORDERED that the amended complaint in the proposed form annexed to the moving papers as NYSCEF Doc. No. 181 shall be served upon all defendants in this action in accordance with the CPLR within 25 days of today and it shall also be uploaded as a separate document (it is now just an exhibit) ; and it is further

ORDERED that this action shall bear the following caption:

(see next page)

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: PART 32**

----- X
PEDRO MEJIA,

Plaintiff,

Index No. 160479/2016

-against-

**770 BROADWAY OWNER, LLC, QUEST BUILDERS
GROUP, INC., LHOTSE CONTRACTING CORP.,
LHOTSE CORP., AVALANCHE CONSTRUCTION
GROUP, INC., NEW M&M GROUP INC. and RB NY
ENTERPRISES, Inc.,**

Defendants.

----- X
LHOSTE CORP.,

Third-Party Plaintiff,

-against-

ROCK GROUP NY CORP.,

Third-Party Defendant.

----- X
ROCK GROUP NY CORP.,

Second Third-Party Plaintiff,

-against-

NEW M&M GROUP INC. and RB NY ENTERPRISES, INC.,

Second Third-Party Defendants.

----- X

and it is further

ORDERED that, within 25 days, counsel for plaintiff shall serve a copy of this order with notice of entry upon the County Clerk (60 Centre Street, Room 141B) and the General Clerk's Office (60 Centre Street, Room 119), and those clerks are directed to mark the court's records to reflect the parties added and the new caption; 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 at the address (ww.nycourts.gov/supctmanh)]; and it is further

ORDERED that counsel are directed to appear for the already scheduled conference on January 28, 2020 at 2:15 p.m.

9/27/19

DATE

ARLENE P. BLUTH, J.S.C.
HON. ARLENE P. BLUTH

CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION	<input type="checkbox"/>	OTHER
	<input checked="" type="checkbox"/>	GRANTED	<input type="checkbox"/>	DENIED	<input type="checkbox"/>	
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>	SUBMIT ORDER	<input type="checkbox"/>	REFERENCE
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input type="checkbox"/>	