

Kaston v G.T.I. Roll Transp. Servs. Inc.

2019 NY Slip Op 33531(U)

December 2, 2019

Supreme Court, New York County

Docket Number: 154870/2018

Judge: Adam Silvera

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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. ADAM SILVERA PART IAS MOTION 22

Justice

-----X INDEX NO. 154870/2018

JAMES KASTON AS EXECUTOR OF THE ESTATE OF
SIBILLA PATRIZI,

05/15/2019,
05/22/2019,
10/14/2019

Plaintiff,

MOTION DATE

- v -

MOTION SEQ. NO. 002 003 004

G.T.I. ROLL TRANSPORTATION SERVICES
INC.,FRANCOIS COULOMBE, ZAIN QAISER, ODS NORTH
AMERICA INC.,GLASER ESCORT LLC

**DECISION + ORDER ON
MOTION**

Defendant.

-----X

The following e-filed documents, listed by NYSCEF document number (Motion 002) 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 59, 62, 63, 67, 70, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 107

were read on this motion to/for CHANGE VENUE

The following e-filed documents, listed by NYSCEF document number (Motion 003) 53, 54, 55, 56, 57, 60, 61, 68, 71, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97

were read on this motion to/for CHANGE VENUE

The following e-filed documents, listed by NYSCEF document number (Motion 004) 98, 99, 100, 101, 102
were read on this motion to/for PRO HAC VICE

Upon the foregoing documents, it is ORDERED that defendants G.T.I. Roll Transportation Services Inc and Francois Coulombe’s motion, motion sequence 002, and defendant ODS North America’s motion, motion sequence 003 to transfer the present action to Supreme Court, Columbia County, pursuant to CPLR 510 and 503(a), is denied; and it is further ORDERED that defendants Glaser Escort LLC and Zain Qaiser’s motion for an Order pursuant to Section 520.11(a) of the Rules of the Court of Appeals of the State of New York, to admit

Conrad R. Blease, Esq., *pro hac vice* for the purpose of representing said defendants in this matter is granted.

This motor vehicle accident case stems from a motor vehicle incident that occurred on October 12, 2017, on northbound State Route 9G in Columbia County, New York, in which plaintiff's decedent Sibilla Patrizi was killed. Defendants' motion contends that plaintiff improperly chose New York County as the venue for this action as the accident occurred in Suffolk County, the majority of material witnesses reside in Columbia County and that to continue this matter in New York County would cause inconvenience and undue hardship upon the non-party witnesses.

Defendants claim that plaintiffs designated New York County as the place of trial on the basis plaintiff's executor resides in New York. Defendant notes that aside from the plaintiff executor's residence, there is no nexus between New York County and plaintiff's claims. Defendants note that plaintiff decedent Sibilla Patrizi resided in Beacon, New York, in Dutchess County, all three eyewitnesses, two identified responding State Troopers, and two identified responding Fire Department emergency first responders work out of and reside in Columbia County. Further, the accident occurred in Columbia County and was investigated by the State Police by investigating Trooper Megin L. Ciaccia, who currently works out of the New York State Police, Kinderhook Barracks located in Columbia County. In support of their motion defendants attach the Police Report, the Findings and Disposition of the State of New York Department of Motor Vehicles, and the affidavit of plaintiff executor James G. Kaston (Mot, Exh A, B, F, I, & J).

Pursuant to CPLR Section § 510(3) the court may change the place of trial of an action when it is in the convenience of material witnesses and the ends of justice will be promoted by

change. “Upon a motion made pursuant to CPLR §510(3), the movant bears the burden of demonstrating that the convenience of material witnesses would be better served by the change. This showing must include (1) the identity of the proposed witnesses, (2) the manner in which they will be inconvenienced by a trial in the county in which the action was commenced, (3) that the witnesses have been contacted and are available and willing to testify for the movant, (4) the nature of the anticipated testimony, and (5) the manner in which the anticipated testimony is material to the issues raised in the case” (*Cardona v Aggressive Heating, Inc.*, 180 Ad2d 572, 572 [1st Dept 1992]).

Though defendant has identified the proposed witnesses, defendant has not demonstrated that it has contacted the witnesses and that they are available and willing to testify for the movant. Thus, defendant has failed to meet its burden pursuant to CPLR §510(3). Thus, defendant’s motion to transfer the present action from New York County to Columbia County is denied.

Defendants Glaser Escort LLC and Zain Qaiser’s motion seeking the admission of Conrad R. Blease, Esq. *pro hac vice* is granted. It is established that Conrad R. Blease, Esq. is admitted to practice law in the states of New Jersey and Pennsylvania and is currently in good standing. Furthermore, Conrad R. Blease, Esq. has associated with an attorney who is a member in good standing of the New York State bar, who can serve as the attorney of record in this matter, as required by Part 520.11(c) of the Rules of the New York Court of Appeals for the Admission of Attorneys and Counselors at Law. As such, the instant motion is granted without opposition.

Accordingly, it is

ORDERED that the motion for leave to appear *pro hac vice* is granted and Conrad R. Blease, Esq. is permitted to appear and to participate in this action on behalf of defendants Glaser Escort LLC and Zain Qaiser, and it is further

ORDERED that he shall at all times during this action be associated with counsel who is a member in good standing of the Bar of the State of New York and is attorney of record for the aforesaid party; and it is further

ORDERED that all pleadings, briefs, and other papers filed with the court shall be signed by the attorney of record, who shall be responsible for such papers and for the conduct of this action; and it is further

ORDERED that, pursuant to Section 520.11 of the Rules of the Court of Appeals and Section 602.2 of the Rules of the Appellate Division, First Department, the attorney hereby admitted *pro hac vice* shall be familiar with and abide by the standards of professional conduct imposed upon members of the New York Bar, including the rules of the courts governing the conduct of attorneys and the Rules of Professional Conduct; and it is further

ORDERED that Conrad R. Blease, Esq. shall be subject to the jurisdiction of the courts of the State of New York with respect to any acts occurring during the course of his participation in this matter; and it is further

ORDERED that Conrad R. Blease, Esq. shall notify the court immediately of any matter or event in this or any other jurisdiction that affects her standing as a member of the bar; and it is further

ORDERED that defendants motions, motion sequence, 002 and 003, to transfer this action to the Supreme Court, Columbia County is denied; and it is further

ORDERED that all parties appear on February 10, 2020, at 930AM for a compliance conference in room 106 of 80 Centre Street; and it is further

ORDERED that within 30 days of entry, plaintiff shall serve a copy of this decision/order upon all parties with notice of entry.

This constitutes the Decision/Order of the Court.

12/2/19
DATE


ADAM SILVERA, J.S.C.

CHECK ONE:

CASE DISPOSED

GRANTED

SETTLE ORDER

INCLUDES TRANSFER/REASSIGN

DENIED

NON-FINAL DISPOSITION

GRANTED IN PART

SUBMIT ORDER

FIDUCIARY APPOINTMENT

OTHER

REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: