

Stewart v Petrolite Inc.

2019 NY Slip Op 35029(U)

September 9, 2019

Supreme Court, Bronx County

Docket Number: Index No. 36402/2017E

Judge: ShawnDya L. Simpson

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX: PART 17

-----X
JENNIFER STEWART,

Plaintiff,

- against -

DECISION AND ORDER

Index No. 36402/2017E

PETROLITE INCORPORATED AND JORGE L.
SANTILLAN,

Defendants.

-----X

Shawndya L. Simpson, J.:

INTRODUCTION

By notice of motion, dated April 15, 2019, Defendant Petrolite Incorporated (Petrolite) seeks summary judgment alleging that it cannot be held liable for defendant's Santilla's action in the motor vehicle accident that is the subject of this case. Petrolite argues that it cannot be held vicariously liable for personal injuries resulting from Santillan's use of the vehicle during the period Santilla rented it according to 49 U.S.C. § 30106 under the Graves Amendment. Plaintiff has filed an affirmation in opposition to the motion.

In support of the motion, plaintiff submits the summons, complaint, answer, discovery request, bill of particulars, vehicle leasing agreement, and an affidavit from Petrolite. In opposition, plaintiff submits the summons, complaint, answer, and bill of particulars, with his counsel's affirmation. For the foregoing reasons, after review and consideration of the filings and proceedings, defendant Petrolite Incorporated's motion for summary judgment on the issue of liability in their favor is denied.

DISCUSSION

Defendant Petrolite argues that it cannot be held vicariously liable for defendant Santillan's involved in the subject motor vehicle accident because although it owned the vehicle it was lease to Santillan. Petrolite argues the under the Graves Amendment it cannot be liable for personal injuries that result during the rental period of the lease of the vehicle. Petrolite states that pursuant to 49 U.S.C. § 30106, it can only be liable if there was negligent on the part of the owner or it was involved in criminal wrongdoing and that neither apply to Petrolite in this case. Petrolite states that "it simply leased the vehicle to POW Transport and [wa]s not involved in this accident." The plaintiff counters that the Graves Amendment is not applicable in this case because defendant Petrolite is liable as an employer or defendant Santillan rather than in the capacity as an owner of a leased vehicle. The plaintiff also argues that Petolite's motion for summary judgment must be denied because Santillan was negligently driving the subject vehicle within the scope of his employment with Petrolite. The plaintiff further argues that the motion must be denied because the defendants' negligence in failing to properly maintain their vehicle resulted in plaintiff's injuries.

The Graves Amendment under 49 U.S.C.S. 30106 provides generally in part that:

An owner of a motor vehicle that rents or leases the vehicle to a person (or an affiliate of the owner) shall not be liable under the law of any State or political subdivision thereof, by reason of being the owner of the vehicle (or an affiliate of the owner), for harm to persons or property that results or arises out of the use, operation, or possession of the vehicle during the period of the rental or lease, if—
(1) the owner (or an affiliate of the owner) is engaged in the trade or business of renting or leasing motor vehicles; and
(2) there is no negligence or criminal wrongdoing on the part of the owner . . .

Under this section an owner that rents vehicles shall not be liable for simply being the owner of the leased or rented vehicle for the actions of those in possession. Vicarious liability in the instances described under the statute is prohibited. However, the defense argues that Petrolite admits in its answer that defendant Santillan was the driver of the vehicle and was acting within the scope of his

employment with Petrolite when the accident occurred. The plaintiff argues that the liability of Petrolite is not based on simply ownership, but on Petrolite's responsibility of defendant Santillan who acted in a negligent manner in the course of his employment with Petrolite. Under this circumstance, plaintiff is correct in its assertion that the Graves Amendment is inapplicable.

Further, there may be liable under the Graves Amendment where there is negligence or wrong doing. In this case, negligence is alleged in that Santillan is claimed to have negligently made a wide right hand turn from an improper lane and that he disregarded and failed to follow traffic laws causing personal injury to the plaintiff. The claim of negligence in this case may raise issues of fact as to whether the exception provided under the Graves Amendment applies giving cause for denied of the instant motion. Additionally, if there is negligence on the part of the owner of the vehicle the Graves Amendment may not relieve the owner of liability (see 49 U.S.C. § 30106). Where there is a claim of improper maintenance by the owner that failure may constitute negligence and there may be no exception to liability, It is alleged in this case that Petrolite failed to maintain the brakes and tires of the subject vehicle and that this condition contributed to accident's the happening. The plaintiff assert that Petrolite has failed to eliminate questions of fact as to their failure to properly maintain their vehicle's mechanical issues. Consequently, denial of the motion is required.

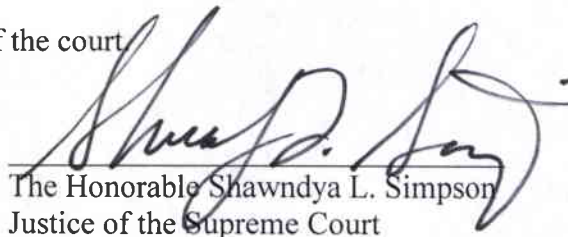
CONCLUSION

Accordingly, it is:

ORDERED, that defendant Petrolite Incorporated's motion for summary judgment on the issue of liability in their favor is denied.

This constitutes the decision and order of the court

Dated: Bronx, New York
September 9, 2019


The Honorable Shawndya L. Simpson
Justice of the Supreme Court