

**Meza v Garcia**

2020 NY Slip Op 32033(U)

May 6, 2020

Supreme Court, Bronx County

Docket Number: 31812/18E

Judge: Mary Ann Brigantti

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SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF THE BRONX

Index No. 31812/18E  
Motion Seq. 001  
Motion Date: Jan. 15, 2020

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ROY MEZA,

Plaintiff,

-against-

**Decision/ Order**

**Present:**

Hon. Mary Ann Brigantti

LOUIS GARCIA, ELVIS DUVERGE,  
DUV AUTO INC, DINARA T. ZHANPEISSOVA,  
UBER TECHNOLOGIES, INC., NICHOLAS CAICEDO,  
MARIA MEDINA, and BARRY MAMADOU

Defendants.

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Recitation as required by CPLR 2219(a), of the papers considered in the review of this motion to dismiss the plaintiff's complaint:

**Papers**

**Numbered**

**Notice of Motion, Affirmation in Support,  
Exhibits Thereto .....  
Affirmation in Opposition .....  
Reply Affirmation .....**

**1  
2  
3**

Motion decided as follows: Upon deliberation of the application duly made plaintiff herein, and all the papers in connection therewith, for an Order: (1) pursuant to the CPLR §3025(b), granting plaintiff leave to amend the Amended Summons and Complaint; and (2) upon granting the plaintiff leave to amend the Amended Summons and Complaint, permitting plaintiff to add a cause of action against a new defendants, UBER USA LLC, EINS NY LLC, RAISER, LLC., RAISER-NYC LLC, VENTURE LEASING LLC, TOWER FUNDING LLC., is heretofore granted.

This action involves a March 6, 2018 multi vehicle accident which occurred at 33rd Street at or near the intersection of Astoria Boulevard in the County of Queens, City and State of New York. At the time of the accident, plaintiff was a passenger in a car operated by DINARA ZHANPEISSOVA, who was working as a driver for UBER. Plaintiff now seeks to add UBER USA LLC, EINS NY LLC, RAISER, LLC., RAISER-NYC LLC, VENTURE LEASING LLC, TOWER FUNDING LLC to the action.

A motion for leave to amend a pleading is committed to the sound discretion of the trial court. *See Edenwald Contr. Co., Inc. v. City of New York*, 60 N.Y.2d 957 (1983). Generally, leave to amend a pleading is, in the absence of prejudice or surprise to the opposing party, freely granted. *See CPLR 3025(b); Inwood Tower, Inc. v. Fireman's Fund Ins. Co.*, 290 A.D.2d 252 (1<sup>st</sup> Dept. 2002).

Plaintiff seeks to add and assert claims against UBER USA LLC, EINS NY LLC, RAISER, LLC., RAISER-NYC LLC, VENTURE LEASING LLC, TOWER FUNDING LLC., because such entities “are all part of the conglomerate associated with the entity in the general parlance is referred to simply as UBER.” Plaintiff claims that such entities may own the vehicle in which plaintiff was a passenger and such companies were even listed on the receipt of the ride in connection with the accident. Plaintiff seeks discovery on the relationship of such parties in connection to the accident in question.

It should be noted from the outset that there is no objection to the Court granting plaintiff’s application as to VENTURE LEASING LLC and TOWER FUNDING LLC, and as such, the motion to amend with respect to those parties is granted without opposition.

Defendant UBER TECHNOLOGIES, INC. (“UBER TECH”), objects to the proposed amendment of adding UBER USA, LLC; EINS NY LLC; RASIER, LLC; and RASIER NYC LLC as defendants as it will “only result in unnecessary time spent on this case and unnecessary paperwork.” UBER TECH claims that no additional insurance would be available by adding UBER USA LLC to this action as UBER TECH is already a named defendant. UBER TECH claims that EINS NY LLC was the dispatcher who did not own, operate, manage, maintain, repair, control or register any vehicle involved in the accident. UBER TECH claims that EINS NY is affiliated with the subject accident as the result of New York City Taxi and Limousine Commission rules and regulations, which require black cars be affiliated with a base and could not be subject to liability. UBER TECH claims that RASIER, LLC, is an improper party to this lawsuit because it is a Transportation Network Company (“TNC”) for peer-to-peer trips and licenses the Driver version of the Uber App from UBER TECH and sublicenses the App to only independent, third party peer-to-peer transportation providers, and therefore could not be subject to liability.

Plaintiff’s application to amend and assert new claims is granted in its entirety. Defendants have failed to demonstrate any prejudice by the amendment. This Court notes that UBER TECH fails to support their attorney’s affirmation with any records, receipts or affidavits to support their claims that the proposed parties are insulated or free from liability and/or carry no new insurance. It appears that discovery is required to flush out the positions and potential liability of the parties.

Accordingly, it is:

ORDERED that the Motion by defendants, pursuant to the CPLR §3025(b), granting plaintiff leave to amend the Amended Summons and Complaint is heretofore granted. It is further

ORDERED that the Motion by defendants, pursuant to the CPLR §3025(b), permitting plaintiff to add a cause of action against a new defendants, UBER USA LLC, EINS NY LLC, RAISER, LLC., RAISER-NYC LLC, VENTURE LEASING LLC, TOWER FUNDING LLC., is heretofore granted. It is further

ORDERED that plaintiff must serve a Second Amended Summons and Complaint within thirty (30) days of the issuance of this Order. It is further

ORDERED that plaintiff shall serve a copy of this Order with Notice of Entry within thirty (30) days of entry of this order.

The forgoing constitutes the Decision and Order of the Court.

Dated:

5/6/20

*Mary Ann Brizanti*  
J.S.C.

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- 1. CHECK ONE.....  CASE DISPOSED IN ITS ENTIRETY  CASE STILL ACTIVE
  - 2. MOTION IS.....  GRANTED  DENIED  GRANTED IN PART  OTHER
  - 3. CHECK IF APPROPRIATE.....  SETTLE ORDER  SUBMIT ORDER  SCHEDULE APPEARANCE
  - FIDUCIARY APPOINTMENT  REFEREE APPOINTMENT