

Gonzalez v Mount Sinai St. Luke's Hosp.
2020 NY Slip Op 32762(U)
August 25, 2020
Supreme Court, New York County
Docket Number: 153207/2019
Judge: Kathryn E. Freed
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**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. KATHRYN E. FREED **PART** **IAS MOTION 2EFM**

Justice

-----X

INDEX NO. 153207/2019

ALFRED GONZALEZ,

Plaintiff,

MOTION SEQ. NO. 001

- v -

MOUNT SINAI ST. LUKE'S HOSPITAL,

**DECISION + ORDER ON
MOTION**

Defendant.

-----X

The following e-filed documents, listed by NYSCEF document number (Motion 001) 16, 17, 18, 19, 20 were read on this motion to/for AMEND CAPTION/PLEADINGS.

In this personal injury action, plaintiff moves, pursuant to CPLR 3025 (b), to amend the caption and complaint to add Mount Sinai West as an additional defendant. See Doc. 17, ¶5. After a review of the motion papers and relevant statutes and case law, the motion, which is unopposed, is granted.

Plaintiff was allegedly injured on November 28, 2017 when he slipped and fell on urine in the emergency room of the defendant hospital, located at 1000 Tenth Avenue, New York, New York.

The captioned action was commenced on March 27, 2019 and issue was joined on or about May 6, 2019. Plaintiff subsequently learned that “the actual entity for the emergency room where [he] fell” was Mount Sinai West. See Doc. 17, ¶ 5. Plaintiff now moves to add Mount Sinai West as an additional defendant in order to protect the rights of plaintiff.

Pursuant to CPLR 3025 (b), "[a] party may amend his or her pleading, or supplement it by setting forth additional or subsequent transactions or occurrences, at any time by leave of court or by stipulation of all parties." "A request for leave to amend a complaint should be freely given, and denied only if there is prejudice or surprise resulting directly from the delay, or if the proposed amendment is palpably improper or insufficient as a matter of law'. *CIFG Assur. N. Am., Inc. v J.P. Morgan Sec. LLC*, 146 AD3d 60, 64-65 (1st Dept 2016) (internal quotation marks omitted); CPLR 3025(b)." *Crossbeat NY v LIIRN, LLC*, 169 AD3d 604, 604 (1st Dept 2019). The lack of any prejudice to defendants is evident from the fact that they have not opposed the instant motion.

Therefore, in light of the foregoing, it is hereby:

ORDERED that the plaintiff's motion for leave to amend the caption and the complaint is granted; and it is further

ORDERED that the amended complaint, in the form annexed to the motion papers (Doc. 20), shall be deemed served upon defendants by service of a copy of this order with notice of entry upon all parties who have appeared in the action; and it is further

ORDERED that the action shall hereinafter bear the following caption:

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

-----X

ALFRED GONZALEZ,

Plaintiff,

-v-

MOUNT SINAI ST. LUKE'S HOSPITAL and
MOUNT SINAI WEST,

Defendants.

-----X;

And it is further

ORDERED that 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 Clerk of the General Clerk's Office (60 Centre Street, Room 119), who are directed to mark the court's records to reflect the amended 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 (www.nycourts.gov/supctmanh)); and it is further

ORDERED that a preliminary conference, is hereby scheduled to be held on September 24, 2020 at 3:00 p.m. either in Part 2 at 80 Centre Street, Room 280; if possible, or by telephone conference, wherein the parties are directed to provide the Court with a dial-in number and access code for the conference and it is further

ORDERED that this constitutes the decision and order of the court.

8/25/2020

DATE

KATHRYN E. FREED, 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: