

**Reingold v Rafferty Constr. Inc.**

2020 NY Slip Op 32797(U)

August 26, 2020

Supreme Court, New York County

Docket Number: 160064/2019

Judge: Kathryn E. Freed

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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. KATHRYN E. FREED PART IAS MOTION 2EFM

*Justice*

-----X

RISA REINGOLD,

Plaintiff,

- v -

RAFFERTY CONSTRUCTION INC, TRUSTEES OF THE  
MASONIC HALL & ASYLUM FUND, UPRIGHT  
INSTALLATION SERVICES CORP.,

Defendant.

-----X

INDEX NO. 160064/2019

MOTION DATE 08/20/2020

MOTION SEQ. NO. 001

**DECISION + ORDER ON  
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 001) 11, 12, 13, 14, 15, 16, 17

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 Taskstream LLC as an additional defendant. See Doc. 12, ¶5. Plaintiff additionally moves to remove Upright Installation Services Corp. (“Upright”), as a defendant. See Doc. 12, ¶¶ 2, 4. 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 December 2, 2017 while working on a construction project on the 15<sup>th</sup> floor of the premises known as 71 West 23<sup>rd</sup> Street, New York, New York, 10010.

The captioned action was commenced on October 16, 2019 and issue was joined on or about November 26, 2019 by defendant Upright Installation Services Corp. Upright presented proof that it was not a proper party to the action, and on November 20, 2019, plaintiff and Upright signed a Stipulation of Discontinuance. Docs. No. 7 and 15. Issue was subsequently joined by the remaining defendants.

Plaintiff subsequently learned that the 15<sup>th</sup> floor, where the accident occurred, was leased by Taskstream LLC, making it a necessary party. See Doc. 12, ¶ 5. Plaintiff now moves to add Taskstream LLC as an additional defendant in order to protect its rights.

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 to add as an additional defendant Taskstream LLC and to remove as a defendant Upright Installation Services Corp. is granted; and it is further

ORDERED that the amended complaint, in the form annexed to the motion papers (Doc. 16), 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

RISA REINGOLD,

Plaintiff,

-v-

RAFFERTY CONSTRUCTION INC,  
TRUSTEES OF THE MASONIC HALL & ASYLUM FUND,  
and TASKSTREAM LLC,

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 (ww.nycourts.gov/supctmanh); and it is further

ORDERED that if counsel can agree on a discovery schedule, they are directed to complete a preliminary conference order form (blank form to be emailed to counsel by the Part 2 Clerk) on or before October 29, 2020; and it is

ORDERED that if counsel cannot agree on the terms of a preliminary conference order, then they are to participate in a telephonic preliminary conference, on October 29, 2020 at 3:00 p.m. wherein the parties are directed to provide the Court with a dial-in number and access code for the conference OR are to have all parties on the line and then patch the Court in at (646) 386-5655 and it is further

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

8/26/2020  
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: