

<b>Punter v 625 E. 6th St. HDFC N.Y., N.Y., 10009</b>
2020 NY Slip Op 32811(U)
August 27, 2020
Supreme Court, New York County
Docket Number: 152155/2020
Judge: Eileen A. Rakower
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**SUPREME COURT OF THE STATE OF NEW YORK — NEW YORK COUNTY**

**PRESENT: Hon. EILEEN A. RAKOWER**

**PART 6**

*Justice*

**CHANTEL PUNTER,**

**INDEX NO. 152155/2020**

**Petitioner,**

**MOTION DATE**

**MOTION SEQ. NO. 1**

**MOTION CAL. NO.**

- v -

**625 E. 6<sup>th</sup> ST HDFC New York, NY, 10009,**

**Respondent.**

The following papers, numbered 1 to \_\_\_\_\_ were read on this motion for/to

Notice of Motion/ Order to Show Cause — Affidavits — Exhibits ...

Answer — Affidavits — Exhibits \_\_\_\_\_

Replying Affidavits

**PAPERS NUMBERED**



**Cross-Motion: Yes X No**

Petitioner Chantal Punter (“Petitioner”) seeks an Order for leave to amend her complaint and to remove this matter from the Civil Court of the City of New York to the Supreme Court pursuant to CPLR § 325(a). Respondent 625 E. 6<sup>th</sup> St HDFC New York, NY, 10009 (“Respondent”) opposes the application.

On November 14, 2018, Petitioner filed an action *pro se* in New York City Civil Court against Respondent seeking damages totaling \$150,000.00 (“the Civil Court Action”). On January 28, 2020, Honorable Justice Matthew P. Raso of the Civil Court of the City of New York entered an Order directing Petitioner to amend her Complaint to add additional plaintiffs and defendants in the Civil Action, or in the alternative, to seek to have the matter removed to the Supreme Court. Petitioner proceeded to bring this application.

In this application, Petitioner contends “that she has a viable cause of action for which she seeks damages in an amount exceeding the jurisdictional limits of all lower courts of the State of New York and therefore seeks an Order removing this matter from the Civil Court of the City of New York to the Supreme Court pursuant to CPLR § 325(a).”

Petitioner states that she has resided in Unit 10 in the building located at 623 East 6<sup>th</sup> Street, New York, NY (“the Premises”). Petitioner states that proposed Additional Infant Plaintiff resided in Unit 7 of the Premises for his entire life and proposed Additional Plaintiff Elizabeth Diaz has lived in Unit 7 of the Premises since his childhood. Petitioner contends that Respondent and Proposed Additional Defendants have caused hazardous conditions that exist inside the units of Petitioner and the proposed Additional Plaintiffs.

Pursuant to CPLR § 3025(b), “A party may amend his pleading... at any time by leave of court... Leave shall be freely given upon such terms as may be just....” “CPLR §3025 allows liberal amendment of pleadings absent demonstrable prejudice” (*Atlantic Mut. Ins. Co. v. Greater New York Mut. Ins. Co.*, 271 A.D.2d 278, 280 [1st Dept. 2000]). In the absence of prejudice, leave to amend a pleading should be denied only when the proposed amendment is plainly lacking in merit (*see Bd. of Managers of Gramercy Park Habitat Condo. v. Zucker*, 190 A.D.2d 636 [1st Dept. 1993]). In addition, pursuant CPLR § 1003, parties may be added at any stage of the action by leave of court. (CPLR § 1003).

Wherefore, it is hereby,

ORDERED that the motion is granted; and it is further

ORDERED that leave to amend the Complaint is granted; and it is further

ORDERED that the Supplemental Summons and Amended Complaint in the proposed form annexed to Petitioner’s moving papers shall be deemed served on Respondent upon service of a copy of this Order with notice of entry thereof and shall be served upon 621-623 EAST 6TH STREET HOUSING DEVELOPMENT FUND CORPORATION, VERITAS PROPERTY MANAGEMENT L.L.C., JORDAN COOPER LLC, CFA MANAGEMENT INC., and 627 EQUITIES, INC., pursuant to the applicable service provisions of the CPLR; and it is further

ORDERED that the amended caption shall appear as follows:

X-----X

CHANTEL PUNTER N.M., infant by his M/N/G,  
ELIZABETH DIAZ, and ELIZABETH DIAZ,  
Individually,

Plaintiffs,

-against-

625 E. 6<sup>TH</sup> ST HDFC NEW YORK, NY 10009,  
621-623 EAST 6TH STREET HOUSING  
DEVELOPMENT FUND CORPORATION,  
VERITAS PROPERTY MANAGEMENT L.L.C.,  
JORDAN COOPER LLC, CFA MANAGEMENT INC.,  
627 EQUITIES, INC., and JOHN DOE, JANE DOE  
and ABC CORPORATION "1" through "5" intending  
to refer to architects, plumbers, engineers, contractors,  
sub-contractors, board members, all who have supervise,  
directed or performed or may have supervised,  
directed, or performed maintenance, repair or  
remediation work to the subject premises and adjacent  
properties,

Defendants.

X-----X

and it is further

ORDERED that the action bearing Civil Court Index No.CV-027989-18/NY  
be, and it hereby is, removed from the Civil Court of the City of New York,  
County of New York and transferred to this Court; and it is further

ORDERED that the Clerk of the Civil Court shall transfer all papers in the  
proceeding in the file under Civil Court Index No. CV-027989-18/NY to the Clerk  
of this court, upon service of a certified copy of this order and payment of any  
appropriate fees, and the Clerk shall transfer the matter to a non-medical  
malpractice Part.

This constitutes the Decision and Order of the Court. All other relief  
requested is denied.

**Dated: AUGUST 27, 2020**

ENTER:   
\_\_\_\_\_ J.S.C.

**HON. EILEEN A. RAKOWER**

Check one: FINAL DISPOSITION  NON-FINAL DISPOSITION