

Canal Prods., Inc. v Robinson
2020 NY Slip Op 34003(U)
December 2, 2020
Supreme Court, New York County
Docket Number: 654711/2019
Judge: Louis L. Nock
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**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. LOUIS L. NOCK **PART** **IAS MOTION 38EFM**

Justice

-----X

CANAL PRODUCTIONS, INC.,

Plaintiff,

- v -

GRAHAM ROBINSON,

Defendant.

-----X

LOUIS L. NOCK, J.

The following e-filed documents, listed by NYSCEF document number (Motion 001) 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26

were read on this motion to/for

STAY

Upon the foregoing documents, and after oral argument, it is ordered that defendant's motion for a stay is granted, as follows.

This action was commenced by summons and complaint filed August 17, 2019, alleging that defendant Ms. Graham Robinson ("Robinson"), a former employee of plaintiff Canal Productions, Inc. ("Canal"), abused her position with plaintiff by charging hundreds of thousands of dollars' worth of her personal expenses to plaintiff's business charge account and utilized millions of plaintiff's frequent flier miles – intended for business use – for her own personal use, plus other similar abuses. The complaint seeks restitutionary damages from defendant. Apart from the filing of an answer and this motion, no other proceedings, and no discovery, have occurred within the context of this action.

Meanwhile, a federal action has been commenced by Robinson in the United States District Court for the Southern District of New York titled *Graham Chase Robinson v Robert De Niro and Canal Productions, Inc.* (Case No. 1:19-cv-09156-LL-KHP) asserting claims under the

New York City Human Rights Law, the New York State Labor Law, the federal Equal Pay Act, and the federal Fair Labor Standards Act. That federal action was commenced nearly two months after this action, on October 3, 2019 (*see*, federal complaint [NYSCEF Doc. No. 12]). Robinson submits the docket sheet of that federal case (NYSCEF Doc. No. 26) revealing multiple items of participation by Robinson and Canal which include assignments of District Judges as well as Magistrate Judges; issuance of a Case Management Order; filing of a Corporate Disclosure Statement; filing of an answer; a Mediation Referral Order; a transcript of proceedings; issuance of a Final Mediation Report; and, most significantly, issuance of a lengthy Scheduling Order which thoroughly maps out all discovery to be conducted among the parties, including document requests and responses, interrogatories, depositions, status conferences, expert discovery, and timeframes for amendment of pleadings (*see*, NYSCEF Doc. No. 26).

Robinson now moves, pursuant to CPLR 2201, for a stay of this action pending the federal action. That statute provides that “the court in which an action is pending may grant a stay of proceedings in a proper case, upon such terms as may be just.” Furthermore, a stay is appropriate if it can “avoid duplication of effort and waste of judicial resources” and if it “avoids the risk of inconsistent rulings” (*Asher v Abbott Laboratories*, 307 AD2d 211, 212 [1st Dept 2003]).

There is no reason why Canal cannot, as a matter of procedure, assert its claims within the context of the federal action; nor does Canal proffer such reason. As noted above, the federal action has proceeded to several stages of interlocutory practice not taken advantage of by the parties within the context of this action. Indeed, to the extent that the complaint makes reference to Robert De Niro (*see*, Complaint ¶ 9) in relation to plaintiff’s allegations of conversion by defendant (Complaint ¶¶ 44-48), this court notes that Mr. De Niro is already a party in the

federal action.¹ Thus, to the extent that his deposition testimony may be sought by Robinson or Canal, no subpoena practice would be necessary in the federal action because he is a party who could simply be noticed for deposition (Fed Rules Civ Pro rules 30, 45).

To have the parties dispersed between two separate forums, representing two separate jurisdictions – the United States District Court and this court – would be indisputably repugnant to notions of judicial efficiency and party economy due to the “substantial overlap of claims and parties” (*Lauria v Kriss*, 147 AD3d 575, 575 [1st Dept 2017]). To allow that to continue would result in a duplication of effort by the parties (*see, Barron v Bludhorn*, 68 AD2d 809, 809 [reversing a denial of stay pending federal proceedings based on the “obvious” prejudice caused “by duplication of effort”]). And, of course, the current situation could very well result in the unmanageable quandary of inconsistent rulings by the two courts on discovery issues, as well as substantive issues (*see, Asher v Abbott Laboratories, supra*).

As observed, the federal action has entered several layers of interlocutory activity, including a detailed discovery plan and even mediation. So if one were to objectively assess which of the two forums would be the more appropriate one in which the parties’ disputes ought to be addressed, it would be, no doubt, in the parties’ concurrently pending federal action – at

¹ The federal complaint describes Mr. Robert De Niro as “the world famous actor, producer, and director, [and] is one of the most powerful people in the entertainment industry” (Federal Complaint ¶ 1). That complaint goes on to allege that:

... De Niro and his corporate alter ego, Canal Productions, Inc. subjected Ms. Robinson to years of gender discrimination and harassment. She eventually quit because she could no longer endure the hostile work environment ...

(Federal Complaint ¶ 3.) The federal complaint asserts causes of action against Canal and Mr. De Niro under the New York City Human Rights Law (Administrative Code of City of NY § 8-107), the New York State Labor Law (Labor Law §§ 194, 215), the United States Equal Pay Act (29 USC 206), and the United States Fair Labor Standards Act (29 USC 215). The federal complaint seeks over \$12 million in alleged compensatory and punitive damages from Canal and Mr. De Niro.

Mr. De Niro has denied the accusations alleged in the federal complaint by answer dated January 21, 2020 (ECF Doc. No. 12 in the federal action), and has asserted 12 affirmative defenses.

least in this particular set of procedural postures. That, and more. Courts, in weighing this question, have taken note of the possibility of one of the forums providing “a more complete disposition of the claims” (*Barron, supra*). In the present circumstance, because of the party status of Mr. De Niro in the federal action, this factor must weigh in favor of having the parties’ disputes entertained in that federal action, which, by virtue of the inclusion of Mr. De Niro there, can provide “a more complete disposition” (*id.*).

Accordingly, it is the opinion of this court that this action ought to be stayed pending the parties’ ongoing federal case.

Accordingly, it is

ORDERED that the defendant’s motion for a stay of this action pending ongoing proceedings among the parties in a federal action titled *Graham Chase Robinson v Robert De Niro and Canal Productions, Inc.* (Case No. 1:19-cv-09156-LL-KHP) is granted, except to the extent of future conferences before this court for the sole purpose of status update; and, accordingly, it is further

ORDERED that a telephonic status conference will occur in this matter on March 9, 2021, at 2:00 p.m., at the initiation of the court.

This will constitute the decision and order of the court.

ENTER:

Louis L. Nock

12/2/2020

DATE

LOUIS L. NOCK, J.S.C.

CHECK ONE:

☐

CASE DISPOSED

☒

NON-FINAL DISPOSITION

☒

GRANTED

☐

DENIED

☐

GRANTED IN PART

☐

OTHER

APPLICATION:

☐

SETTLE ORDER

☐

SUBMIT ORDER

CHECK IF APPROPRIATE:

☐

INCLUDES TRANSFER/REASSIGN

☐

FIDUCIARY APPOINTMENT

☐

REFERENCE