

Collazo v Hogsett Family Realty Assoc., LLC

2021 NY Slip Op 30290(U)

November 26, 2019

Supreme Court, Queens County

Docket Number: 700762/2019

Judge: Robert J. McDonald

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This opinion is uncorrected and not selected for official publication.

[* 1]

SHORT FORM ORDER

NEW YORK SUPREME COURT : QUEENS COUNTY

P R E S E N T : HON. ROBERT J. McDONALD
Justice

IAS PART 34

----- X

MIRIAM COLLAZO,
Plaintiff,

Decision Amending Prior
Order

Index No.: 700762/2019

- against -

Motion Date: 10/17/2019

HOGSETT FAMILY REALTY ASSOCIATES, LLC,
LIC HOLDINGS GROUP LLC, SKYVIEW
NORTHERN TENANT LP, NOBLE SKYVIEW
CONSTRUCTION LLC, S&S CONCRETE PUMPING
CORPORATION, ALPINE READY MIS INC.,
GEM CONSTRUCTION INC. and CONSOLIDATED
SCAFFOLDING INC.,

Motion No.: 12

Motion Seq.: 3

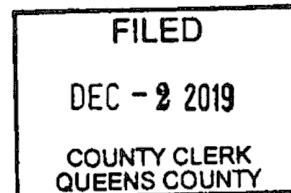
Defendants.

----- X

S&S CONCRETE PUMPING CORPORATION,
Third-Party Plaintiff,

- against -

CONSOLIDATED SCAFFOLDING INC.,
Third-Party Defendant.



----- X

HOGSETT FAMILY REALTY ASSOCIATES, LLC,
SKYVIEW NORTHERN TENANT LP,
NOBLE SKYVIEW CONSTRUCTION LLC

Second Third-Party Plaintiff

Buildingrite, LLC, and Rise Concrete, LLC,

Second Third-Party Defendants

----- X

The Court mistakenly omitted the adding of new party

defendants Buildingrite, LLC and Rise Concrete, LLC to the new caption part of the decision. This decision is modified only to the extent that "Buildingrite, LLC and Rise Concrete, LLC" are now added to the amended caption.

The following electronically filed documents read on this motion by plaintiff for an Order amending the body of the complaint and the caption of the summons and complaint to add Buildingrite, LLC, and Rise Concrete, LLC, as direct party defendants:

Papers
Numbered

Notice of Motion-Affirmation-Exhibits.....EF 61-65

This is an action to recover damages for personal injuries arising out of an incident which occurred on October 2, 2018.

The summons and complaint were filed on January 14, 2019 against the original defendants. A third-party complaint was filed against Buildingrite, LLC, and Rise Concrete, LLC, on June 26, 2019. Thereafter, plaintiff determined that Buildingrite, LLC and Rise Concrete, LLC, were responsible parties to the main action.

In the absence of significant prejudice or surprise to the opposing party, leave to amend a pleading should be freely given (see CPLR 3025[b]; Edenwald Contr. Co. v City of New York, 60 NY2d 957[1983]; Russo v Lapeer Contr. Co., Inc, 84 AD3d 1344 [2d Dept. 2011]), unless the proposed amendment is palpably insufficient or patently devoid of merit (see Bernardi v Spyrtos, 79 AD3d 684 [2d Dept. 2010]; Martin v Village of Freeport, 71 AD3d 745 [2d Dept. 2010], and provided the amendment does not prejudice or surprise the opposing party (see Douglas Elliman, LLC v Bergere, 98 AD3d 642 [2012])).

Here, there is no prejudice or surprise to Buildingrite, LLC, and Rise Concrete, LLC, because they are already in the action as the second third-party defendants.

No opposition has been filed.

Accordingly, it is hereby

ORDERED, that plaintiff's motion is granted and plaintiff is given leave to add Buildingrite, LLC, and Rise Concrete, LLC, as party defendants; and it is further

ORDERED, that the caption of the action shall be amended to reflect the foregoing, and all papers to be served and filed herein shall bear the following caption:

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS
- - - - - x
MIRIAM COLLAZO,

Plaintiff, Index No.: 700762/2019

- against -

HOGSETT FAMILY REALTY
ASSOCIATES, LLC,
LIC HOLDINGS GROUP LLC,
SKYVIEW NORTHERN TENANT LP,
NOBLE SKYVIEW CONSTRUCTION LLC,
S&S CONCRETE PUMPING CORPORATION,
ALPINE READY MIS INC., GEM CONSTRUCTION
INC. and CONSOLIDATED SCAFFOLDING INC.,
Buildingrite, LLC and Rise Concrete, LLC

Defendants.

- - - - - x
S&S CONCRETE PUMPING CORPORATION,

Third-Party Plaintiff,

- against -

CONSOLIDATED SCAFFOLDING INC.,

Third-Party Defendant.

- - - - - x
HOGSETT FAMILY REALTY ASSOCIATES, LLC,
SKYVIEW NORTHERN TENANT LP,
NOBLE SKYVIEW CONSTRUCTION LLC

Second Third-Party Plaintiff

Buildingrite, LLC and Rise Concrete, LLC,

Second Third Party Defendants

- - - - - x

; and it is further

ORDERED, that plaintiff is directed to serve the supplemental summons and amended verified complaint in the proposed form annexed to the moving papers as Exhibit B, with a copy of this order with notice of entry on Buildingrite, LLC and Rise Concrete, LLC, in conformance with the CPLR's rules of service and on the remaining defendants by regular mail; and it is further

ORDERED, that the defendants Buildingrite, LLC, and Rise Concrete, LLC, shall serve an answer to the amended verified complaint within 20 days from the date of said service; and it is further

ORDERED, that CPLR 306-b will be satisfied so long as service of the supplemental summons and amended complaint occurs and proof thereof are filed within 120 days of filing the supplemental summons and amended complaint.

Dated: November 26, 2019
Long Island City, N.Y.



ROBERT J. McDONALD
J.S.C.

FILED
DEC - 2 2019
COUNTY CLERK
QUEENS COUNTY