

Brooks v Field Hall Found.

2021 NY Slip Op 33795(U)

February 5, 2021

Supreme Court, Westchester County

Docket Number: Index No. 69554/2019

Judge: Linda S. Jamieson

Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op 30001(U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.

This opinion is uncorrected and not selected for official publication.

To commence the statutory time period for appeal of right (CPLR § 5513 [a]), you are advised to serve a copy of this order, with notice of entry, upon all parties.

Disp _____ Dec x Seq. Nos. 1-2 Type dismiss, SJ

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

PRESENT: HON. LINDA S. JAMIESON

-----X

SANJAY BROOKS, on behalf of herself
and all others similarly situated,

Index No. 69554/2019

Plaintiff,

DECISION AND ORDER

-against-

FIELD HALL FOUNDATION and YRNC
OPERATING, LLC d/b/a YORKTOWN
REHABILITATION AND NURSING CENTER,

Defendants.

-----X

The following papers numbered 1 to 6¹ were read on these motions:

<u>Paper</u>	<u>Number</u>
Notice of Motion, Affidavits, Affirmation and Exhibits	1
Memorandum of Law	2
Notice of Cross-Motion, Affidavit, Affirmation and Exhibits	3
Memorandum of Law	4
Affirmation and Exhibits in Opposition and in Reply	5
Memorandum of Law in Opposition and in Reply	6

There are two motions before the Court in this purported class action lawsuit involving a certified nursing assistant at an adult day care facility in Yorktown. The first motion, filed by defendant YRNC Operating LLC, d/b/a Yorktown Rehabilitation

¹Plaintiff submitted unauthorized sur-reply papers to the Court. These papers have been disregarded.

and Nursing Center ("YRNC"), seeks to dismiss YRNC from the action because it did not employ plaintiff. The second motion, filed by plaintiff, seeks summary judgment finding that YRNC did employ plaintiff.

The facts are as follows. Plaintiff was employed from 2001 to April 2018 by co-defendant Field Hall Foundation at an adult day care facility in Yorktown. At some point in 2018, YRNC, or an affiliate, purchased the company that operated that facility, as well as a nursing home. Plaintiff continued to work for the same facility for another six months, when she was terminated (or chose to leave). The name on the sole paystub she submits to the Court is "Yorktown Social Adult Daycare." It turns out that Yorktown Social Adult Daycare is a d/b/a for a company called "YSAD, LLC" ("YSAD"). Plaintiff did not sue YSAD, her actual employer.

YRNC contends that it should be dismissed from the action because it does not employ plaintiff. It submits to the Court affidavits from its payroll company and its director of human resources, both of whom say that their records reflect that there is no one named Sanjay Brooks employed by YRNC, and that there never has been. Instead, YRNC contends that YSAD is plaintiff's employer and the proper party defendant.

Plaintiff argues that the two companies are essentially the same, and that she only needs to sue YRNC. As proof of this

assertion, she submits to the Court a disciplinary record from September 2018, just before she left, on Yorktown Rehabilitation and Nursing Center's letterhead, this being the d/b/a for YRNC. She also asserts, among other things, that since the two companies have the same ownership and the same addresses, they must be one and the same.


The problem with plaintiff's argument is that the law does not make such assumptions. Without more, there is no basis for the Court to conclude that these two separate legal entities are the same or alter egos such that the Court should disregard the corporate formalities and keep YRNC in the action, when it has demonstrated that it never employed plaintiff. See *Krakower v. Battles Universal, Inc.*, 152 A.D.2d 656, 657, 543 N.Y.S.2d 526, 528 (2d Dept. 1989); *Blount v. Bovis Lend Lease LMB, Inc.*, 49 A.D.3d 293, 294, 853 N.Y.S.2d 53, 54 (1st Dept. 2008).

Accordingly, the Court dismisses YRNC from the action **without** prejudice. Should discovery reveal that YRNC is a proper party, plaintiff may seek to add it back in to the action. The Court denies plaintiff's motion for summary judgment in its entirety.

The foregoing constitutes the decision and order of the

Court.

Dated: White Plains, New York
February 5, 2021


HON. LINDA S. JAMIESON
Justice of the Supreme Court

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