

Smith v Park Ave. Hospitality, LLC
2022 NY Slip Op 30167(U)
January 20, 2022
Supreme Court, New York County
Docket Number: Index No. 157488/2020
Judge: David Benjamin Cohen
Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op <u>30001</u> (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.

**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. DAVID B. COHEN PART 58

Justice

-----X

INDEX NO. 157488/2020

MOSI SMITH,

Plaintiff,

MOTION SEQ. NO. 002

- v -

PARK AVENUE HOSPITALITY, LLC, SHASHIN GANDHI,
ACACIA NETWORK HOUSING, INC., "XYZ CORP.", A
FICTITIOUS ENTITY WHOSE ACTUAL NAME IS
PRESENTLY UNKNOWN BUT WHICH WAS THE
MANAGING AGENT OF 429 PARK AVENUE SOUTH, NEW
YORK, NEW YORK ON MARCH 3, 2020, and ACACIA
NETWORK HOUSING, INC.,

**DECISION + ORDER ON
MOTION**

Defendants.

-----X

The following e-filed documents, listed by NYSCEF document number (Motion 002) 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93

were read on this motion to/for DISMISS.

In this negligence action commenced by plaintiff Mosi Smith, defendant Shashin Gandhi ("Gandhi") moves, pursuant to CPLR 3211 (a)(7), for an order dismissing the complaint for failure to state a cause of action or, in the alternative, pursuant to CPLR 3212, for summary judgment dismissing the complaint. Plaintiff opposes the motion and cross-moves: 1) pursuant to CPLR 3025, to amend the complaint to name Park Avenue Hospitality Management, LLC ("PAHM") as a defendant; and 2) pursuant to CPLR 3123, deeming admitted each fact alleged in plaintiff's notice to admit dated June 1, 2021. Defendant Acacia Network Housing, Inc. ("Acacia") also opposes Gandhi's motion. After consideration of the parties' contentions, as well as a review of the relevant statutes and case law, the applications are resolved as follows.

FACTUAL AND PROCEDURAL BACKGROUND

On or about January 1, 2020, Acacia and nonparty Clarion Park entered into a memorandum of understanding (“MOU”) pursuant to which the latter, a hotel located at 429 Park Avenue South in Manhattan (“the hotel” or “the premises”), was to allow Acacia to use 40 commercial hotel rooms for “a supervised temporary housing assistance program.” Doc. 72. The MOU required the hotel to “be responsible for all maintenance and repairs” at the premises, which were owned by defendant Park Avenue Hospitality, LLC (“PAH”). Doc. 72 at par. 10 (d); Doc. 73. Gandhi executed the MOU as “general manager” of the hotel and the agreement listed him as the “hotel management contact.” Doc. 72 at 7, 9. Additionally, records of the New York City Department of Housing Preservation & Development (“HPD”) indicate that Gandhi was the “head officer” and managing agent for PAH. Doc. 74.

On March 3, 2020, plaintiff, a tenant at the hotel, was allegedly injured when she fell due to a defective condition on an interior stairway at the premises. Doc. 1. In her complaint filed September 16, 2020, plaintiff alleged that she was injured due to the negligence of PAH and Gandhi in their ownership, operation, and/or management of the premises. Doc. 1.

PAH and Gandhi joined issue by their answer filed January 21, 2021, in which they denied all substantive allegations of wrongdoing and asserted various affirmative defenses. Doc. 16.

In her bill of particulars dated January 28, 2021, plaintiff alleged that she was injured on March 3, 2020 when she fell while attempting to descend a set of interior stairs at the premises. Doc. 65. The accident was allegedly caused by “numerous [unspecified] defects afflicting the stairway.” Doc. 65.

On April 22, 2021, PAH and Gandhi commenced a third-party action against Acacia seeking contribution, contractual and common-law indemnification, and breach of contract to

procure insurance. Doc. 20. Acacia joined issue by its third-party answer filed May 24, 2021, denying all substantive allegations of wrongdoing and counterclaiming against PAH and Gandhi for contribution and contractual and common-law indemnification. Docs. 27-28.

In June 2021, Plaintiff filed an amended summons and complaint naming Acacia as a direct defendant. Doc. 38.¹ PAH and Gandhi answered the amended complaint on June 10, 2021. Doc. 41. Acacia answered the amended complaint on July 28, 2021 and also cross-claimed against PAH and Gandhi for contribution and common-law and contractual indemnification. Doc. 46.

On June 1, 2021, plaintiff served a notice to admit on PAH and Gandhi. The notice asked said defendants to admit or deny the following:

1. The premises bearing street address 429 Park Avenue South, New York, New York 10016 corresponds to New York City Block number "885" and New York City Lot number "4" (hereinafter, the "Premises").
2. The deed annexed as Exhibit "A" [Doc. 73] is a true and accurate copy of the deed, dated as of April 8, 2005, pursuant to which ownership in and to the Premises was transferred from "Palace International, Properties, Ltd." to "Park Avenue Hospitality, LLC."
3. Since April 8, 2005, "Park Avenue Hospitality, LLC" has not transferred ownership in and to the Premises.
4. On April 8, 2005, Shashin Gandhi was listed as the managing agent of the Premises with the New York City Department of Housing Preservation and Development.

Doc. 36.

On June 4, 2021, PAH and Gandhi responded to the notice to admit as follows:

1. Admit to the existence of the property at 429 Park Avenue South, New York, New York, but neither admit nor deny this statement as the New York City Borough-Block-Lot map is the best evidence of the parcel numbers and the identification of the location of the property.
2. Admit that the deed dated April 8, 2005 exists, but neither admit nor deny this statement as the document is the best evidence of its terms, conditions, meaning and interpretation.

¹ As a result, there is no longer a third-party action.

3. Admit that the deed dated April 8, 2005 exists, but object to this statement in that it seeks conclusions regarding ultimate issues of fact and law which are more properly the subject of other discovery devices.
4. Deny that on April 8, 2005 Shashin Gandhi was listed as the managing agent of 425 Park Avenue South, New York, New York with the New York City Department of Housing Preservation and Development.

Doc. 40.

Gandhi now moves for dismissal of the complaint pursuant to CPLR 3211(a)(7) or, alternatively, pursuant to CPLR 3212. Doc. 57. In an affirmation in support, counsel for Gandhi argues that the complaint against Gandhi must be dismissed pursuant to CPLR 3211(a)(7) because:

1) Gandhi is employed as hotel operations manager by PAHM, and not PAH; 2) Gandhi is not a managing agent or member of PAH and, even if he were, he could not be held personally liable since plaintiff fails to allege facts sufficient to pierce the corporate veil. Doc. 58. Alternatively, counsel argues that Gandhi is entitled to summary judgment pursuant to CPLR 3212 since he did not cause or contribute to any condition which allegedly injured plaintiff. Doc. 58.

In a statement of material facts submitted in support of the motion, Gandhi's attorney represents that Gandhi: 1) is employed by PAHM as manager of hotel operations; 2) is not employed by PAH; 3) is not managing agent of PAH; 4) is not a managing member of PAH; and 5) did not cause or contribute to the plaintiff's injuries. Doc. 69.

In support of the motion, Gandhi submits an affidavit in which he states that he is employed by Park Avenue Management, LLC ("PAM") as manager of hotel operations; that PAH and PAM are separate and distinct entities; he is not employed by PAH; he is not the managing agent of PAH; he is not a managing member of PAH; he never engaged in any wrongful conduct that caused or created the alleged condition that plaintiff claims caused her to fall; and he did not inspect, repair or perform any maintenance related to the condition that allegedly injured plaintiff. Doc. 68.

In opposition to the branch of Gandhi's motion seeking dismissal pursuant to CPLR 3211(a)(7), plaintiff's counsel argues that Gandhi fails to establish that he lacked any connection to the premises. Doc. 71. Counsel further asserts, relying on *German v Bronx United in Leveraging Dollars, Inc.*, 258 AD2d 251 (1st Dept 1999) that, since a managing agent may be liable where it is negligent or exercises the requisite degree of control over the premises, and Gandhi held himself out as the managing agent of the premises, he is therefore a proper defendant. Doc. 71. Thus, claims counsel, the branch of Gandhi's motion seeking dismissal for failure to state a cause of action must be denied. Doc. 71.

Counsel further asserts that the branch of Gandhi's motion seeking summary judgment pursuant to CPLR 3212 must be denied since he has failed to establish his prima facie entitlement to such relief. Doc. 71. Specifically, counsel claims that Gandhi has not established that he did not create, or have actual or constructive notice of, the allegedly dangerous condition. Doc. 71. Additionally, counsel urges that the branch of Gandhi's motion seeking summary judgment is premature pursuant to CPLR 3212(f) given that plaintiff has not had the chance to depose Gandhi regarding his relationship to the premises. Doc. 71. Additionally, counsel argues that the motion must be denied since Gandhi submitted no evidence regarding the condition of the stairs or when they were last inspected or cleaned before the incident. Doc. 71.

Plaintiff's counsel also cross-moves, pursuant to CPLR 3123, to deem admitted the items in plaintiff's notice to admit dated June 1, 2021 on the ground that Gandhi and PAH's responses thereto were equivocal. Docs. 70-71. The cross motion also seeks to add PAHM, which Gandhi named as the "manager of hotel operations", as a defendant. Docs. 70-71.² In support of the cross

² In his affirmation in support of Gandhi's motion, counsel for Gandhi represents that Gandhi was "employed by [PAHM] as a manager of hotel operations." Doc. 58 at par. 4. However, Gandhi states in his own affidavit in support of his motion that he was employed by PAM as manager of hotel operations. Doc. 68 at par. 3.

motion, plaintiff submits, inter alia, a printout from the HPD website reflecting that PAH owned the premises where the hotel was located and that Gandhi was “head officer” of PAH as well as managing agent of the premises in his individual capacity. Doc. 74.

In reply, Gandhi argues that the complaint must be dismissed since he cannot be personally liable in his capacity as managing agent of PAH. Doc. 82. Annexed to Gandhi’s reply is an amended affidavit in which he concedes that he was the managing agent of PAH, despite his prior affidavit representing that he was not. Doc. 68 at par. 6; Doc. 83 at par. 8. He insists that he oversees “the management and day-to-day operations of various hotel properties” and had “mistakenly believed that [he] was not the managing agent of [PAH]” and submits his amended affidavit to “rectify this inaccuracy”. Doc. 83 at pars. 2, 4.

In a reply affirmation in further support of plaintiff’s cross motion, plaintiff’s counsel argues that, if defendants believed that the notice to admit was improper, they should have moved for a protective order. Doc. 84. Since they did not, urges plaintiff, the items in the notice to admit should be deemed admitted. Doc. 84.

In opposition to Gandhi’s motion, Acacia argues that he has failed to establish his prima facie entitlement to summary judgment dismissing the complaint. Doc. 85. Specifically, it argues that, since Gandhi held himself out to HPD to be the managing agent for the hotel, questions of fact exist regarding whether exercised control over the premises or caused the alleged hazard. Doc. 85. Acacia further asserts that Gandhi’s motion is premature since discovery is needed to explore his relationship to the premises as well as the ownership of the premises. Doc. 85. Further, Acacia asserts that there is a cognizable claim against Gandhi since the HPD records name him as managing agent. Doc. 85. Acacia does not oppose plaintiff’s cross motion. Doc. 88.

In reply to Acacia's submission, counsel for Gandhi argues that there is no basis for personal liability against him. Doc. 92. He maintains that no question of fact exists regarding whether Gandhi was managing agent for PAH since he (Gandhi) admits in his amended affidavit that he was. Doc. 92. Counsel asserts that Gandhi "did not maintain complete and exclusive control over the [p]remises or otherwise affirmatively cause the condition complained of" and "never engaged in any wrongful conduct that caused or created the alleged condition" which harmed plaintiff. Doc. 92 at pars. 5-6.

In response to Acacia's affirmation, counsel for PAH argues that, since Acacia did not serve a notice to admit, its argument regarding the said notice should not be considered by this Court. Doc. 93.

LEGAL CONCLUSIONS

The Branch of Gandhi's Motion Seeking Dismissal

On a motion to dismiss pursuant to CPLR 3211, the complaint must be construed in the light most favorable to the plaintiff and all factual allegations must be accepted as true (*See 219 Broadway Corp, v Alexander's, Inc.*, 46 NY2d 506, 509 [1979]). The complaint must also be construed liberally and all reasonable inferences must be drawn in favor of the plaintiff (*See Leon v Martinez*, 84 NY2d 83, 87-88 [1994]).

"Individual liability can not [stet] be based upon an allegation that amounts to mere nonfeasance unless plaintiff establishes, as a matter of law, that the managing agent was in complete and exclusive control of the premises (*Gardner v 1111 Corp.*, 286 App Div 110, 112 141 NYS2d 552 [1955], *affd* 1 NY2d 758 [1956])" (*Hakim v 65 Eighth Ave., LLC*, 42 AD3d 374, 375 [1st Dept 2007]; *see also German*, 258 AD2d at 252). A managing agent may be held liable for affirmative acts of negligence (*See German*, 258 AD2d at 252-253).

Here, plaintiff alleges in her complaint that Gandhi “was and acted as the managing agent for the [p]remises” and that he was negligent, inter alia, in maintaining the hotel. Doc. 1 at pars. 17, 30. Therefore, plaintiff has adequately pleaded a claim against Gandhi in his individual capacity and the branch of his motion seeking dismissal must be denied. Gandhi’s claim that he cannot be sued individually is without merit given the HPD printout reflecting that he, personally, was the managing agent for the premises. Doc. 74.

The Branch of Gandhi’s Motion Seeking Summary Judgment

On a motion for summary judgment, the movant “must make a prima facie showing of entitlement to judgment as a matter of law, tendering sufficient evidence to demonstrate the absence of any material issues of fact” (*Alvarez v Prospect Hosp.*, 68 NY2d 320, 324 [1986]). Once this showing is made, “the burden shifts to the party opposing the motion for summary judgment to produce evidentiary proof in admissible form sufficient to establish the existence of material issues of fact which require a trial of the action” (*Alvarez*, 68 NY2d at 324). A movant’s “failure to make a prima facie showing of entitlement to summary judgment requires a denial of the motion, regardless of the sufficiency of the opposing papers” (*Vega v Restani Constr. Corp.*, 18 NY3d 499, 503 [2012]).

Here, Gandhi clearly fails to establish his prima facie entitlement to summary judgment dismissing the complaint. Most significantly, Gandhi’s own affidavits in support of his motion are contradictory. As noted previously, Gandhi initially submitted an affidavit attesting to the fact that he was *not* the managing agent of PAH, and then submitted an amended affidavit in which he concedes that he *was*, in fact, the managing agent of PAH. Doc. 68 at par. 6; Doc. 83 at par. 8. Therefore, a material issue of fact exists regarding whether Gandhi was the managing agent for

PAH, the owner of the premises (*See Santos v Condo 124 LLC*, 161 AD3d 650, 655 [1st Dept 2018] [plaintiff's varying accounts of incident warranted denial of summary judgment]).

Gandhi's affidavits also fail to establish his prima facie entitlement to summary judgment since they are conclusory (*See, JMD Holding Corp. v Cong. Fin. Corp.*, 4 NY3d 373, 384-385 [2005]; *Clarke v 6485 & 6495 Broadway Apt. Inc.*, 122 AD3d 494, 495 [1st Dept 2014]). Specifically, as noted above, he represents, inter alia, that he did not engage in any wrongful conduct that caused or created the alleged condition that plaintiff claims caused her to fall. Docs. 68, 83.

Although Gandhi maintains that he cannot be personally liable for plaintiff's injuries because there are no allegations regarding the piercing of the corporate veil, he overlooks that the HPD records (Doc. 74) list him personally, and not as an employee of a particular entity, as the managing agent of the premises (*See Dept. of Hous. Preserv. & Dev. of the City of N.Y. v. Knoll*, 120 Misc.2d 813 [App Term, 2nd Dept 1983] [HPD's computer database records are prima facie evidence of any matter stated therein]).

Additionally, Gandhi's attempt to rectify his error by submitting an amended affidavit with his reply papers is procedurally improper. Reply papers are meant to address arguments made in opposition to a motion, and "not to permit the movant to introduce new arguments in support of, or new grounds or evidence for, the motion" (*Lee v Law Offices of Kim & Bae, P.C.* 161 AD3d 964, 965 [2d Dept 2018]). Although summary judgment motions do not ordinarily entail credibility determinations, self-serving affidavits that directly conflict with a party's own deposition testimony may be discounted (*Phillips v Bronx Lebanon Hosp.*, 268 AD2d 318, 320 [1st Dept 2000]; *Perez v Bronx Park S. Assoc.*, 285 AD2d 402 [1st Dept 2001]), and there is no

reason not to apply this principle to contradictory affidavits submitted by the same individual in support of a motion.³

Additionally, plaintiff and Acacia correctly assert that Gandhi's motion for summary judgment is premature.

"A motion for summary judgment may be denied as premature where it appears that the facts essential to oppose the motion exist but cannot then be stated" (*Bonilla v Bangert's Flowers*, 132 AD3d 618, 619 [2d Dept 2015]; *see also Guzman v City of New York*, 171 AD3d 653 [1st Dept 2019]). "A party who contends that a summary judgment motion is premature is required to demonstrate that discovery might lead to relevant evidence or the facts essential to justify opposition to the motion were exclusively within the knowledge and control of the movant" (*id.*). "The mere hope or speculation that evidence sufficient to defeat a motion for summary judgment may be uncovered during the discovery process is insufficient to deny the motion" (*Cajas-Romero v Ward*, 106 AD3d 850, 852 [2d Dept 2013] [internal quotations and citation omitted]).

(*Kolman v Gallina*, 2019 NY Slip Op 33807[U], *9-13 [Sup Ct, NY County 2019]).

Discovery in this action, in which a preliminary conference has yet to be conducted, would flesh out details regarding the relationship between Gandhi and PAH, PAM, and/or PAHM. This would allow plaintiff and Acacia the opportunity to explore who managed the hotel and what degree of control that person and/or entity had over the premises. Such information would appear to be in the exclusive knowledge of Gandhi, who was named as managing agent in the HPD records and who has submitted conflicting affidavits regarding whether he was employed as managing agent of the hotel by PAH, the owner of the premises. *See* CPLR 3212 (f).

Plaintiff's Cross Motion Regarding The Notice To Admit

"CPLR 3123 supplies a disclosure device known as a 'notice to admit,' whereby one party can require another to admit stated facts, or the genuineness of a paper or document..." (Siegel, NY Prac § 364 at 691 [6th ed]). "The device may be used only when the seeking party 'reasonably

³ The Court notes that it has searched, in vain, for case law involving a scenario in which an individual submitted contradictory affidavits in support of the same motion.

believes there can be no substantial dispute' about the matter at the trial and when it is within the knowledge of the other party or ascertainable by him 'upon reasonable inquiry.'" (*Id.* at 691-692).

A response to a notice to admit must be

served within 20 days of service of the notice to admit, in the form of a sworn statement by the party to whom the request is directed "either denying specifically the matters of which an admission is requested or setting forth in detail the reasons why he cannot truthfully either admit or deny those matters" (CPLR 3123[a]). A notice to admit is to be used only for disposing of uncontroverted questions of fact or those that are easily provable (*Meadowbrook-Richman, Inc. v Cicchiello*, 273 AD2d 6 [2000]). A failure to respond to a notice to admit has been found to constitute admission of the noticed facts (*Hernandez v City of New York*, 95 AD3d 793 [2012]; *Watson v City of New York*, 178 AD2d 126 [1991]) and a person acts at his/her peril in failing to respond to clear cut matters of fact (*Marine Midland Bank v Custer*, 97 AD2d 974 [1983]).

(*HSBC Bank USA, N.A. v Carchi*, 2013 NY Slip Op 30552[U], *2 [Sup Ct, Queens County 2013]).

A party deeming a notice to admit unreasonable "should promptly move for a protective order determining the issue one way or the other." (Siegel, NY Prac § 364 at 693). Additionally, the "denial [of an item in a notice to admit] should be outright" (*Id.*).

As noted previously, plaintiff served a notice to admit dated June 1, 2021 on PAH and Gandhi. Doc. 36. PAH and Gandhi did not move for a protective order or set forth any reason why they were unable to admit or deny any of the items in the notice. Doc. 40. Although PAH and Gandhi partially admitted Items 1 and 2 of the notice, they simultaneously represented that they could neither admit nor deny those Items and, thus, the said responses were meaningless. Doc. 40. Additionally, Item 2 sought a response regarding the accuracy of a deed, which is clearly appropriate for a notice to admit. Doc. 36. Item 3 asked PAH and Gandhi to admit that PAH did not transfer the premises after it obtained them in 2005, something which could easily have been admitted or denied, and said defendants did not respond but rather objected to the demand. Doc. 40. Given the failure by PAH and Gandhi to properly respond to Items 1-3, the said items are

deemed to have been admitted (*See Hernandez*, 95 AD3d at 794). In any event, Items 1 - 4 must all be deemed admitted by PAH and Gandhi since the responses thereto were sworn by their attorney and not them personally (*see CPLR 3123[a]; Watson*, 178 AD2d at 128).

Plaintiff's Cross Motion To Amend The Complaint

As noted above, plaintiff cross-moves to amend her complaint to name PAHM as a defendant. Pursuant to CPLR 3025(b), a party may amend its pleading at any time by leave of court, and leave shall be freely given upon such terms as may be just. It is within the court's discretion whether to permit a party to amend its complaint (*See Peach Parking Corp. v 345 W. 40th Street, LLC*, 43 AD3d 82 [1st Dept 2007]). A plaintiff need not establish the merit of its proposed new allegations (*see Sorge v Gona Realty, LLC*, 188 AD3d 474 [1st Dept 2020]; *Lucindo v Mancuso*, 49 AD3d 220, 227 [1st Dept 2008]), although it must demonstrate that the amendment is not palpably insufficient and not clearly devoid of merit. *See MBIA Ins. Corp. v Greystone & Co., Inc.*, 74 AD3d 499 (1st Dept 2010); *Pier 59 Studios, L.P. v Chelsea Piers, L.P.*, 40 AD3d 363, 366 (1st Dept 2007).

Here, Gandhi's attorney represents that Gandhi was employed by PAHM as a "manager of hotel operations." Doc. 58 at par. 21. Therefore, the branch of plaintiff's cross motion seeking to amend the complaint is granted, as plaintiff's proposed amendment is not palpably insufficient or devoid of merit.⁴

Accordingly, it is hereby:

ORDERED that the branch of the motion by defendant Shashin Gandhi seeking to dismiss the complaint for failure to state a cause of action pursuant to CPLR 3211 (a)(7) is denied; and it is further

⁴ Although Gandhi represents in his initial affidavit that he was employed by PAM as manager of hotel operations (Doc. 68 at par. 3), plaintiff does not seek to name that entity as an additional defendant. Docs. 70-71.

ORDERED that the branch of the motion by defendant Shashin Gandhi seeking summary judgment dismissing the complaint pursuant to CPLR 3212 is denied; and it is further

ORDERED that the branch of the cross motion by plaintiff Mosi Smith seeking to have this Court deem admitted Items 1- 4 of the notice to admit dated June 1, 2021 which she served on defendants Park Avenue Hospitality, LLC and Shashin Gandhi is granted, and Items 1 - 4 of the said notice to admit are hereby deemed admitted; and it is further

ORDERED that the branch of the cross motion by plaintiff Mosi Smith seeking to amend the complaint to name Park Avenue Hospitality Management, LLC as an additional defendant is granted; and it is further

ORDERED that the amended complaint, in the form annexed to the motion papers (NYSCEF Doc. 77), shall be deemed served upon 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 a supplemental summons and amended complaint, in the form annexed to the motion papers, shall be served, in accordance with the Civil Practice Law and Rules, upon Park Avenue Hospitality Management, LLC, the additional party to this action, within 30 days after service of a copy of this order with notice of entry; and it is further

ORDERED that the action shall hereinafter bear the following caption:

MOSI SMITH,

Plaintiff,

- v -

PARK AVENUE HOSPITALITY, LLC, SHASHIN GANDHI, PARK AVENUE HOSPITALITY MANAGEMENT, LLC, "XYZ CORP." A FICTITIOUS ENTITY WHOSE ACTUAL NAME IS PRESENTLY UNKNOWN BUT WHICH WAS THE MANAGING AGENT OF 429 PARK AVENUE SOUTH, NEW YORK, NEW YORK ON MARCH 3, 2020, and ACACIA NETWORK HOUSING, INC.,

Defendants.

And it is further

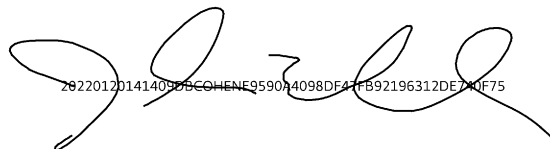
ORDERED that counsel for the moving party shall serve a copy of this order with notice of entry upon the County Clerk (60 Centre Street, Room 141B) and the Clerk of the General Clerk's Office (60 Centre Street, Room 119), who are directed to mark the court's records to reflect the party being added pursuant hereto; 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 the parties are to appear for a preliminary conference in this matter on May 10, 2022 at 10:30 a.m.

1/20/2022

DATE



DAVID B. COHEN, J.S.C.

CHECK ONE:

CASE DISPOSED
GRANTED DENIED
SETTLE ORDER
INCLUDES TRANSFER/REASSIGN

NON-FINAL DISPOSITION
GRANTED IN PART
SUBMIT ORDER
FIDUCIARY APPOINTMENT

OTHER

REFERENCE