

<b>Rodriguez v S &amp; A 206 Realty LLC</b>
2022 NY Slip Op 30493(U)
February 14, 2022
Supreme Court, New York County
Docket Number: Index No. 158012/2019
Judge: Leslie Stroth
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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. LESLIE STROTH PART 52

Justice

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HARVEY RODRIGUEZ,

Plaintiff,

- v -

S AND A 206 REALTY LLC, CONSOLIDATED EDISON
COMPANY OF NEW YORK, INC, NATIONAL GRID
ELECTRIC SERVICES LLC, THE CITY OF NEW YORK

Defendant.

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INDEX NO. 158012/2019
MOTION DATE 12/09/2021
MOTION SEQ. NO. 002

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 002) 25, 26, 27, 28, 29, 30, 31, 32

were read on this motion to/for AMEND CAPTION/PLEADINGS

The instant case involves personal injuries sustained in an alleged trip and fall accident on construction debris on February 28, 2019 in front of the premises located at 64 West 47th Street. (See Summons and Complaint, ¶¶ 29- 32). The parties previously stipulated to discontinue its action as against defendants S and A 206 Realty LLC and National Grid Electric Services LLC, leaving only the City of New York and Consolidated Edison Company of New York as defendants. (See NYSCEF document numbers 10, 12). Plaintiff then moved for leave to serve a Supplemental Summons and Amended Complaint (motion seq. no. 002) to add additional defendants. By Order dated October 1, 2021, the Court denied plaintiff's first motion for such relief, as no factual basis and/or supporting documentation was submitted to demonstrate that the proposed defendants may be liable for plaintiff's accident and resultant injuries. (See Plaintiff's Exhibit D).

Pending before the Court is plaintiff's second motion for leave to serve a Supplemental Summons and Amended Complaint to add seven additional defendants: (1) the Diamond & Jewelry Industry Commercial Condominium, (2) the Board of Managers of the Diamond &

Jewelry Industry Commercial Condominium, (3) 62 West 47<sup>th</sup> Street Trust, (4) Michael Nektalov, as trustee of the 62 West 47 Street Trust, (5) David Nektalov, as trustee of the 62 West 47 Street Trust, (6) 64 West 47<sup>th</sup> Street LLC, (6) 66 W. 47<sup>th</sup> St., LLC, (7) Newmark Knight Frank Global Management Services, LLC.

Plaintiff argues that all of these entities may be responsible, in whole or in part, for plaintiff's accident and resultant injuries. In support of its motion, plaintiff submits the deed and the deed search for the subject premises (*See* Plaintiff's Exhibit C). The first six proposed defendants are reflected on the 2021- 2022 final tax assessment and other documents annexed to the deed search of the subject premises. (*Id.*) With respect to the seventh proposed defendant, plaintiff's attorney affirms that he personally conducted a site inspection of the subject premises, which revealed that Newmark Knight Frank Global Management Services, LLC is the managing agent of the premises. (*See* Notice of Motion, Schatz Affirmation at ¶ 8). Plaintiff's attorney also affirms that he confirmed Newmark Knight Frank Global Management Services, LLC's status as the premise's managing agent through a discussion with a tenant in the building. (*Id.*)

Plaintiff's supporting documents and attorney's affirmation, including personal knowledge, sufficiently demonstrate that the proposed amendments are not palpably insufficient or clearly devoid of merit. *See MBIA Ins. Corp. v Greystone & Co., Inc.*, 74 AD3d 499, 500 (1st Dept 2010). The existing defendants have not opposed the motion.

Accordingly, it is

ORDERED that the plaintiff's motion for leave to amend the complaint is granted; and it is further

ORDERED that the amended complaint, in the form annexed to the motion papers, 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 the additional parties in 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 bear the following caption:

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HARVEY RODRIGUEZ,

Plaintiff,

- v -

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC., THE CITY OF NEW YORK, THE DIAMOND & JEWELRY INDUSTRY COMMERCIAL CONDOMINIUM, THE BOARD OF MANAGERS OF THE DIAMOND & JEWELRY INDUSTRY COMMERCIAL CONDOMINIUM, NEWMARK KNIGHT FRANK GLOBAL MANAGEMENT SERVICES, LLC, 62 WEST 47TH STREET TRUST, MICHAEL NEKTALOV, AS TRUSTEE OF THE 62 WEST 47 STREET TRUST, DAVID NEKTALOV, AS TRUSTEE OF THE 62 WEST 47 STREET TRUST, 64 WEST 47TH STREET LLC AND 66 W. 47TH ST., LLC

Defendant.

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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 parties 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 (www.nycourts.gov/supctmanh)).

2/14/2022  
DATE

  
LESLIE STROTH, J.S.C.

CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION		
	<input checked="" type="checkbox"/>	GRANTED	<input type="checkbox"/>	DENIED	<input type="checkbox"/>	OTHER
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>	SUBMIT ORDER	<input type="checkbox"/>	REFERENCE
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input type="checkbox"/>	