

Lindo v Chestnut Holdings of N.Y. Inc.
2022 NY Slip Op 31639(U)
May 20, 2022
Supreme Court, New York County
Docket Number: Index No. 453161/2021
Judge: Lori Sattler
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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. LORI SATTLER PART 02TR

Justice

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HARVEY LINDO, GINA MARTI, YIRALDY RODRIGUEZ, MALIK SCOTT, MALLERY MORRISON, ROSHANA HARPER, BARBARA JACKSON, SHANIECE FIGGS,

Plaintiff,

- v -

CHESTNUT HOLDINGS OF NEW YORK INC., JONATHAN WIENER, BEN REIDER, 1231 LLC, RYER 2180 LLC, 3175 G C LLC, 2264 G LLC, 1001 LLC, MORRIS 1 LLC, 1230 LLC, 1425 U LLC, 1520 LLC, 167 LLC, 2095 GC LLC, C. PERDOMO & ASSOCIATES, LLC, CHRISTOPHER PERDOMO, BEATRICE LNU, KELLER WILLIAMS REAL ESTATE LLC, KELLER WILLIAMS NYC, HELVIN RYMER, HAVEN REALTY GROUP LLC, ALEXES LOWE, ANNE DOE FROM HAVEN REALTY GROUP LLC, PREMIER ONE REALTY LLC, JUAN DUARTE, NORD EAST REALTY GROUP LLC, G2 REALTY GROUP LLC, MARIA GABRIEL FALQUEZ, LIFESTYLE REALTY LLC, MINUKHA FISHMAN, ANDREA TINDAL, CLOVE REALTY LLC,

Defendant.

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DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 001) 59, 60, 61, 62, 63, 64, 65, 66, 67

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

Plaintiffs move to file an Amended Complaint pursuant to CPLR 3025(b); to add, remove, and correct certain party names pursuant to CPLR 1003; and to update the caption in this matter to reflect the changes to the parties. Defendants do not oppose this motion.

Leave to amend pleadings under 3025(b) "should be freely granted, so long as there is no surprise or prejudice to the opposing party" (Kocourek v Booz Allen Hamilton Inc., 85 AD3d 502, 504 [1st Dept 2011]). "Prejudice requires some indication that the defendant has been hindered in the preparation of his case or has been prevented from taking some measure in support of his position" (Cherebin v Empress Ambulance Serv., Inc., 43 AD3d 364, 365 [1st

Dept 2007, quoting *Loomis v Civetta Corrino Constr. Corp.*, 54 NY2d 18, 23 [1981] [internal quotation marks omitted]). There is no surprise or prejudice to defendants in the present action because this action is still in its early stages, with discovery not having been commenced (*see Kocourek* at 505 [“[T]here is no prejudice to defendants because the litigation is still in its initial phase.”]). Accordingly, the branch of plaintiffs’ motion seeking to file an Amended Complaint is granted.

CPLR 1003 provides that “[P]arties may be added at any stage of the action by leave of court” and that “[p]arties may be dropped by the court . . . at any stage of the action and upon such terms as may be just.” Here, defendants do not oppose plaintiffs’ adding or dropping parties from this action. Accordingly, the branch of plaintiffs’ motion seeking to add, remove, and correct the names of certain parties as identified in plaintiffs’ proposed Amended Complaint is granted.

Accordingly, it is hereby:

ORDERED that Plaintiffs’ motion for leave to file an Amended Complaint, a copy of which was attached to the Affirmation of Eliza Schafler dated April 12, 2022 (NYSCEF Doc. No. 64), is granted; and it is further

ORDERED that Plaintiffs’ motion to add, remove, and correct the names of certain parties in this action to reflect those identified in Plaintiffs’ Amended Complaint; and it is further

ORDERED, that 975 S LLC; Elchanon Bartfield; 2234 Realty Co., LLC; 189 Mosholu LLC; Sasha Catus; Abe Rosenberg; Zoo Doe; and Janisha Doe, be and he hereby is joined as party defendants in this action; and it is further

ORDERED, that the plaintiff be and he hereby is authorized to serve an amended complaint upon the defendant herein naming 975 S LLC; Elchanon Bartfield; 2234 Realty Co.,

LLC; 189 Mosholu LLC; Sasha Catus; Abe Rosenberg; Zoo Doe; and Janisha Doe as an additional party defendants; and it is further

ORDERED, that the plaintiff be and he hereby is permitted to serve a supplemental summons and amended complaint upon 975 S LLC; Elchanon Bartfield; 2234 Realty Co., LLC; 189 Mosholu LLC; Sasha Catus; Abe Rosenberg; Zoo Doe; and Janisha Doe, said supplemental summons and amended complaint together with a copy of this order with notice of entry thereof to be served upon , and upon the attorney for , the defendant herein, within twenty days from the date of the signing and entry of this order; and it is further

ORDERED, that all the said defendants shall have twenty days from the date of service of the supplemental summons and amended complaint within which to put in such answers to said amended complaint as they may be advised; and it is further

ORDERED, that the complaint in this action be and the same hereby is amended by striking out Keller Williams Real Estate LLC, Keller Williams NYC, and Maria Gabriel Falquez as a party defendant in this action; and it is further

ORDERED that the County Clerk is directed to amend the caption in this action to the following:

HARVEY LINDO, GINA MARTI, YIRALDY RODRIGUEZ, MALIK SCOTT,
MALLERY MORRISON, ROSHANA HARPER, BARBARA JACKSON, and
SHANIECE FIGGS,

Plaintiffs,

- against -

CHESTNUT HOLDINGS OF NEW YORK, INC., 975 S LLC, RYER 2180 LLC, 2234
REALTY CO., LLC, 2095 GC LLC, 1231 LLC, 1001 LLC, MORRIS 1 LLC, 1230 LLC,
1425 U LLC, 1520 LLC, 167 LLC, 3175 GC LLC, 189 MOSHOLU LLC, 2264 G LLC,
PREMIER ONE REALTY LLC, ELCHANON BARTFIELD, JUAN E. DUARTE,
NORD-EAST REALTY GROUP, LLC, MINUKHA FISHMAN, LIFESTYLE REALTY
LLC, ANDREA TINDAL, CLOVE REALTY LLC, ABE ROSENBERG, ZOO DOE,
JANISHA DOE, C PERDOMO & ASSOCIATES LLC, CHRISTOPHER PERDOMO,
BEATRICE DOE, BRACHA NY LLC, BRACHA NY 1 LLC, HELVIN RYMER, G2
REALTY GROUP, LLC, HAVEN GROUP REAL ESTATE, LLC, ALEXES LOWE,
ANNE DOE, and SASHA CATUS,

Defendants.

This constitutes the order and decision of the Court.

5/20/2022
DATE



LORI SATTLER, 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