

Johnson-Shirley v HWA 1290 III LLC

2023 NY Slip Op 31927(U)

June 6, 2023

Supreme Court, New York County

Docket Number: Index No. 157710/2021

Judge: Mary V. Rosado

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This opinion is uncorrected and not selected for official publication.

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

PRESENT: HON. MARY V. ROSADO PART 33M

Justice

-----X

ALLISON JOHNSON-SHIRLEY,
Plaintiff,

INDEX NO. 157710/2021

MOTION DATE 05/30/2023

MOTION SEQ. NO. 001

- v -

HWA 1290 III LLC, HWA 1290 IV LLC, HWA 1290 V LLC,
STRUCTURE TONE, LLC,

ORDER - AMENDING CAPTION

Defendant.

-----X

HWA 1290 III LLC, HWA 1290 IV LLC, HWA 1290 V LLC,
STRUCTURE TONE, LLC

Third-Party
Index No. 596056/2021

Plaintiff,

-against-

ALAS-ACON ELECTRIC SERVICE CORP.

Defendant.

-----X

The following e-filed documents, listed by NYSCEF document number (Motion 001) 23, 24, 25, 26, 27, 28

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

Upon the foregoing documents, there being no opposition, and good cause having been shown, Plaintiff Allison Johnson-Shirley's ("Plaintiff") motion seeking to amend her caption and her pleadings to include an additional party, Linklaters, LLP, as a defendant is granted.

Leave to amend pleadings is freely granted in the absence of prejudice if the proposed amendment is not palpably insufficient as a matter of law (*Mashinsky v Drescher*, 188 AD3d 465 [1st Dept 2020]). A party opposing a motion to amend must demonstrate that it would be substantially prejudiced by the amendment, or the amendments are patently devoid of merit (*Greenburgh Eleven Union Free School Dist. V National Union Fire Ins. Co.*, 298 AD2d 180, 181

[1st Dept 2002]). Delay alone is not sufficient to deny leave to amend (*Johnson v Montefiore Medical Center*, 203 AD3d 462 [1st Dept 2022]).

Here, there is no opposition, and no party has shown how they might be prejudiced by allowing Plaintiff to amend the caption and her pleadings. Therefore, under this lenient standard, Plaintiff's motion is granted.

Accordingly, it is hereby,

ORDERED that Plaintiff's motion for leave to amend the caption and the pleadings is granted, and the amended complaint in the proposed form annexed as Exhibit D to Plaintiff's moving papers (NYSCEF No. 28) shall be deemed served upon HWA 1290 III LLC, HWA 1290 IV LLC, HWA 1290 V LLC and Structure Stone LLC upon service of a copy of this order with notice of entry thereof; and it is further

ORDERED that Plaintiff shall serve the newly added Defendant, Linklaters, LLP, pursuant to the directives of the CPLR; and it is further

ORDERED that the Defendants shall serve an answer to the Amended Complaint or otherwise respond thereto within 20 days from the date of said service; and it is further

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ORDERED that this action shall bear the following caption:

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

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ALLISON JOHNSON-SHIRLEY

Plaintiff(s),

-against-

HWA 1290 III LLC, HWA 1290 IV LLC, HWA 1290 V
LLC, AND STRUCTURE TONE, LLC, LINKLATERS,
LLP

Defendant(s)

-----X

HWA 1290 III LLC, HWA 1290 IV LLC, HWA 1290 V
LLC, AND STRUCTURE TONE, LLC,

Third-Party Plaintiff(s),

-against-

ATLAS – ACON ELECTRIC SERVICE CORP.,

Third-Party Defendant(s)

-----X

And it is further:

ORDERED that within 10 days of entry, counsel for Plaintiff shall serve a copy of this order with notice of entry on all parties to this action; and it is further

ORDERED that counsel are directed to appear for an in-person preliminary conference on July 12, 2023 at 9:30 a.m. in Room 442, 60 Centre Street, New York, New York. If the parties agree to a proposed preliminary conference order prior to the date of the conference, the parties are directed to submit the proposed order via e-mail to SFC-Part33-Clerk@nycourts.gov; and it is further

ORDERED that the Clerk of the Court is directed to enter judgment accordingly.

This constitutes the decision and order of the Court.

6/6/2023
DATE

Mary V Rosado
HON. MARY V. ROSADO, 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