

Parish Prop. Mgt., Inc. v Global Coverage, Inc.

2024 NY Slip Op 34614(U)

July 18, 2024

Supreme Court, New York County

Docket Number: Index No. 651353/2022

Judge: Emily Morales-Minerva

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

PRESENT: HON. EMILY MORALES-MINERVA PART 42M

Justice

-----X INDEX NO. 651353/2022

PARISH PROPERTY MANAGEMENT, INC.,
Plaintiff,

01/23/2024,
12/22/2023,
01/12/2024,
02/15/2024

MOTION DATE

- v -

GLOBAL COVERAGE, INC., THE BLACKMAN AGENCY,
INC., MICHAEL PAGAN, HAL BLACKMAN,

MOTION SEQ. NO. 004 005 007
008

Defendants,

-and -

RELIGIOUS PROPERTY TRUST, THE JESUIT
COLLABORATIVE, THE NEW YORK PROVINCE FOR THE
SOCIETY OF JESUS, THE JESUIT RESIDENCE,

**DECISION + ORDER ON
MOTION**

Nominal-Defendants.

-----X

The following e-filed documents, listed by NYSCEF document number (Motion 004) 168, 169, 170, 193, 194, 195, 205, 206, 207

were read on this motion to/for DISMISS

The following e-filed documents, listed by NYSCEF document number (Motion 005) 157, 158, 159, 196, 197, 198, 201, 202, 203, 204, 208, 209

were read on this motion to/for DISMISS

The following e-filed documents, listed by NYSCEF document number (Motion 007) 163, 164, 165, 166, 167, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242

were read on this motion to/for DISCOVERY

The following e-filed documents, listed by NYSCEF document number (Motion 008) 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 243

were read on this motion to/for QUASH SUBPOENA, FIX CONDITIONS

APPEARANCES:

Cullen Dykman, New York, NY (Elizabeth Usinger, Esq. and Jean Pierre van Lent, Esq., of counsel), for plaintiff.

Marshall Dennehey Warner Coleman & Goggin, New York, NY (Nicholas P. Chrysanthem, Esq., of counsel), for defendants The Blackman Agency, Inc and Hal Blackman.

Kaufman Dolowich, LLC, White Plains, NY (Howard S. Kronberg, Esq., of counsel), for defendant Global Coverage, Inc.

Mound Cotton Wollan & Greengrass, New York, NY (Matthew G. Horowitz, Esq., of counsel), for defendant Michael Pagan.

Biedermann Hoenig Semprevivo, New York, NY (Julian S. Cohen, Esq., of counsel), for nominal defendants.

EMILY MORALES-MINERVA, J.S.C.

Today, July 18, 2024, the Court held oral arguments for motions sequence numbers 03 to 08 in this declaratory judgment action. All moving parties and responding parties appeared for the arguments, by counsel, addressing in turn each motion and opposition thereto. During oral arguments, and on record, motion sequence numbers 04 and 05 resolved on consent, and motion sequence numbers 07 and 08 resolved as withdrawn without prejudice, as set forth below.

MOTION SEQ. NOS. 04 & 05

In motion sequence number 04, defendant MICHAEL PAGAN moves, pursuant to CPLR 3211 (a) (1) and (a) (7), for an order

dismissing the claims and crossclaims of nominal defendants RELIGIOUS PROPERTY TRUST, THE JESUIT COLLABORATIVE, THE NEW YORK PROVINCE FOR THE SOCIETY OF JESUS, and THE JESUIT RESIDENCE ("nominal defendants"). Nominal defendants submitted opposition to the motion.

Similarly, in motion sequence number 05, defendant GLOBAL COVERAGE, INC., moves, pursuant to CPLR 3211 (a) (1) and (a) (7), for an order dismissing the claims and crossclaims of nominal defendants. Nominal defendants submitted opposition to the motion.

During oral arguments, nominal defendants, by counsel, conceded to the respective arguments of defendant PAGAN and defendant GLOBAL COVERAGE, INC., and, on record, consented to the Court granting both motion sequence nos. 04 and 05 with one exception. Nominal defendants argued that the Court should not dismiss that part of its crossclaim, seeking an amendment to the caption in this matter to remove RELIGIOUS PROPERTY TRUST, THE JESUIT COLLABORATIVE, THE NEW YORK PROVINCE FOR THE SOCIETY OF JESUS, and THE JESUIT RESIDENCE as nominal defendants and add said parties as nominal plaintiffs. Counsel for nominal defendants, on record, also consented to having their claim and crossclaims dismissed as to defendants THE BLANKMAN AGENCY, INC. and HAL BLACKMAN, except for nominal defendants' application to change the case caption.

In seeking to amend the caption, nominal defendants rely on CPLR 3025 (b). However, this reliance is misplaced. Rule 3025 (b) provides:

"A party may amend his or her [their] pleading, or supplement it by setting forth additional or subsequent transactions or occurrences, at any time by leave of court or by stipulation of all parties. Leave shall be freely given upon such terms as may be just including the granting of costs and continuances. Any motion to amend or supplement pleadings shall be accompanied by the proposed amended or supplemental pleading clearly showing the changes or additions to be made to the pleading."

Nominal defendants are seeking to amend plaintiff's pleadings, not their own. Further, nominal defendants provide no case law or other authority for the courts to allow nominal defendants to change a caption to list themselves as plaintiffs, nominal or otherwise. Therefore, nominal defendants' application to amend the caption is denied.

MOTION SEQ. NOS. 07 & 08

Defendant GLOBAL COVERAGE, INC., filed a motion (seq. no. 07), seeking, among other things, an order pursuant to sections 2308 and 5224 of the CPLR and sections 756 and 773 of the Judiciary Law, compelling plaintiff PARISH PROPERTY MANAGEMENT, INC., to comply with subpoenas. Plaintiff opposed the motion,

and filed motion (seq. no. 08), seeking, among other things, an order quashing subpoenas and entering a protective order prohibiting defendant GLOBAL COVERAGE, INC. from taking any further depositions of plaintiff's counsel.

Upon oral arguments, both counsel for defendant GLOBAL COVERAGE, INC., and plaintiff PARISH PROPERTY MANAGEMENT, INC., confirmed withdrawal of their respective motions without prejudice, as the parties are meeting in good faith to exchange discovery.

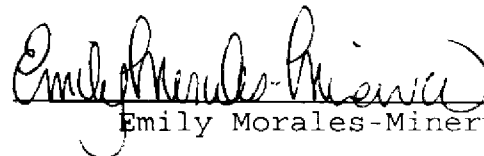
Accordingly, it is

ORDERED that motions sequence numbers 04 and 05 are granted in their entirety, and the claims and crossclaims of nominal defendants are dismissed as against all defendants; and it further

ORDERED that motions sequence numbers 07 and 08 are dismissed without prejudice.

THIS CONSTITUTES THE DECISION AND ORDER OF THE COURT.

DATE: July 18, 2024


Emily Morales-Minerva, J.S.C.