

Beach-Mathura v Adams

2025 NY Slip Op 30916(U)

March 7, 2025

Supreme Court, New York County

Docket Number: Index No. 952335/2023

Judge: Richard G. Latin

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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. RICHARD G. LATIN PART 46M

Justice

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LORNA BEACH-MATHURA,

Plaintiff,

INDEX NO. 952335/2023

MOTION DATE N/A

MOTION SEQ. NO. 004

- v -

ERIC ADAMS, CITY OF NEW YORK, TRANSIT BUREAU
OF THE NEW YORK POLICE DEPARTMENT, NEW YORK
POLICE DEPARTMENT GUARDIANS ASSOCIATION,
GUARDIANS ASSOCIATION OF THE POLICE
DEPARTMENT CITY OF NEW YORK INC., UNKNOWN
ENTITY XYZ-2, UNKNOWN ENTITY XYZ-3,

**DECISION + ORDER ON
MOTION**

Defendant.

-----X

The following e-filed documents, listed by NYSCEF document number (Motion 004) 93, 94, 95, 96, 97, 98, 100, 101, 102, 105, 106, 107, 108, 109, 110, 111, 112

were read on this motion to/for DISMISSAL.

Upon the foregoing documents and for the reasons spread across the record at oral argument on March 6, 2025, it is ordered that the application by order to show cause brought by defendants Eric Adams, City of New York, and Transit Bureau of the New York Police Department f/k/a New York Transit Police Department (collectively, the “municipal defendants”) to, inter alia, dismiss the complaint due to plaintiff’s lack of capacity is denied and plaintiff’s cross-motion pursuant to CPLR 1021 to substitute the Chapter 7 Bankruptcy Trustee is granted.

Plaintiff Lorna Beach-Mathura commenced this action under the Adult Survivors Act, CPLR 214-j, on or about November 22, 2023. Subsequent to the commencement of the action, plaintiff filed a pro-se bankruptcy petition in August 2024. Thus, plaintiff’s cause of action belongs to the bankruptcy estate (11 USC § 541). Once the municipal defendants learned of plaintiff’s bankruptcy, they moved to dismiss this action. Shortly thereafter, the Trustee of Beach-Mathura’s bankruptcy estate, Marcia T. Dunn, moved for Beach-Mathura’s counsel to be approved as Special

Counsel to the Estate in the United States Bankruptcy Court, Southern District of Florida, Miami Division and to continue this action.

By orders dated February 18, 2025 and March 5, 2025, United States Bankruptcy Court Judge Robert A. Mark approved the Trustee's applications to employ Megan S. Goddard, Esq. and Goddard Law PLLC and Nathaniel K. Charny, Esq. and Charny & Wheeler, P.C. to act as special counsel to the Trustee and directed that they move in this action to substitute the Trustee as successor in interest to Beach-Mathura and to take all steps necessary to continue the prosecution of this litigation. Here, the Court is bound by the Supremacy Clause and as a matter of comity to defer to the Bankruptcy Court's intent to effectuate this substitution (*see Gaetano v 1210 Troy Schenectady Road, LLC*, 231 AD3d 708 [2d Dept 2024]; *Fausset v Turner Construction Company*, 177 AD3d 702 [2d Dept 2019]; *Berry v Rampersad*, 21 Misc 3d 851 [Sup Ct, Kings County 2008]). Accordingly, substitution shall be permitted, this action will continue, and defendants will not be given leave to amend their answer to assert the affirmative defense of lack of capacity to sue as it would be devoid of merit considering Beach-Mathura initially did have the capacity and the capacity issue is further made moot by the substitution (*see Fausset*, 177 AD3d at 704).

Accordingly, the municipal defendants' motion is denied in its entirety; and it is further ORDERED that the cross-motion is granted; and it is further

ORDERED that Marcia T. Dunn, as Trustee for Lorna Beach-Mathura Bankruptcy Estate be substituted as plaintiff in the above-entitled action in place and stead of the plaintiff; and it is further

ORDERED that the new caption shall read:

MARCIA T. DUNN, AS TRUSTEE
FOR LORNA BEACH-MATHURA
BANKRUPTCY ESTATE,

Plaintiff,

-against-

ERIC ADAMS, CITY OF NEW YORK,
TRANSIT BUREAU OF THE NEW YORK
POLICE DEPARTMENT (F/K/A NEW
YORK TRANSIT POLICE DEPARTMENT),
NEW YORK POLICE DEPARTMENT
GUARDIANS ASSOCIATION, UNKNOWN
ENTITY XYZ-1, UNKNOWN ENTITY
XYZ-2, UNKNOWN ENTITY XYZ-3,

Defendants.

and it is further;


ORDERED that counsel for plaintiff shall serve a copy of this order with notice of entry upon the Clerk of the Court and the Clerk of the General Clerk's Office, who are directed to amend their records to reflect such a change in the caption herein; and it is further

ORDERED that counsel for plaintiff shall serve a copy of this order with notice of entry upon the defendants within 15 days of the order being uploaded onto NYSCEF; and it is further

ORDERED that such service upon the Clerk of the Court 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)]; and it is further

ORDERED that counsel are directed to meet and confer and submit a proposed discovery schedule to Part 46 via email on or before April 4, 2025.

This constitutes the decision and order of the Court.

<u>3/7/2025</u> DATE		 RICHARD G. LATIN, J.S.C.
CHECK ONE:	<input type="checkbox"/> CASE DISPOSED	<input checked="" type="checkbox"/> NON-FINAL DISPOSITION
APPLICATION:	<input type="checkbox"/> GRANTED <input type="checkbox"/> DENIED	<input checked="" type="checkbox"/> GRANTED IN PART <input type="checkbox"/> OTHER
CHECK IF APPROPRIATE:	<input type="checkbox"/> SETTLE ORDER	<input type="checkbox"/> SUBMIT ORDER
	<input type="checkbox"/> INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/> FIDUCIARY APPOINTMENT <input type="checkbox"/> REFERENCE