

Weissbrod v City of New York

2025 NY Slip Op 33412(U)

September 11, 2025

Supreme Court, New York County

Docket Number: Index No. 161111/2014

Judge: Hasa A. Kingo

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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. HASA A. KINGO **PART** **05M**

Justice

-----X

AMY WEISSBROD,

Plaintiff,

- v -

CITY OF NEW YORK, NELLIE MALAVE, P.O. ROSS,
SERGEANT SHIMSCRY

Defendant.

-----X

INDEX NO. 161111/2014

MOTION DATE 06/29/2025

MOTION SEQ. NO. 010

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 010) 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204

were read on this motion to/for SUMMARY JUDGMENT(AFTER JOINDER).

Upon the foregoing documents, plaintiff Amy Weissbrod (“Plaintiff”) moves summary judgment and other relief. Defendant the City of New York (the “City”) opposes. For the reasons set forth herein, the motion is denied in its entirety.

BACKGROUND

This action arises from Plaintiff’s arrest by members of the New York City Police Department (“NYPD”) on August 9, 2013. On November 7, 2014, Plaintiff commenced this action by filing a summons with notice, followed by a complaint on December 15, 2014. From the beginning, this case has been plagued by unnecessary motion practice and vexatious litigation.¹ In relevant part, Plaintiff filed a motion, by order to show cause, to amend her complaint which was denied with leave to renew on June 29, 2018 (NYSCEF Doc Nos. 5-6, 20). Plaintiff moved to amend a second time by motion filed April 19, 2019, which was later withdrawn (NYSCEF Doc No. 25-26, 47). Plaintiff filed a third motion to amend on September 30, 2019 (NYSCEF Doc Nos. 53-61). The third motion to amend was granted by order and decision dated January 28, 2020, and Plaintiff was permitted to file an amended complaint with eleven causes of action (NYSCEF Doc No. 76, decision and order, Love, J.).² The motion to amend was denied with respect to Plaintiff’s

¹ A complete procedural history of the case is set forth in this court’s prior decision and order dated March 5, 2024 the City’s Affirmation in Opposition to this motion (NYSCEF Doc Nos. 144, 193).

² The amended complaint interposes causes of action for (1) False Arrest and False Imprisonment under New York State law; (2) False Arrest and False Imprisonment under 42 USC § 1983; (3) Assault and Battery under New York State Law; (4) Excessive Force Under 42 USC § 1983; (5) Malicious Prosecution under New York State Law; (6) Malicious Prosecution Under 42 USC § 1983; (7) Malicious Abuse of Process under New York State Law; (8) Malicious Abuse of Process under 42 USC § 1983; (9) Failure to Intervene under New York State Law; (10) Failure to Intervene under 42 USC § 1983; and (11) Negligent Hiring and Supervision under New York State Law.

proposed twelfth cause of action for *Monell* liability (*id.*). Plaintiff's motion to amend did not request leave to add any additional parties, and no leave was given to add additional parties (NYSCEF Doc Nos. 53-54, 76).

On October 25, 2022, Plaintiff's counsel moved to be relieved (NYSCEF Doc No. 87, order to show cause). The motion was granted pursuant to an order of the court dated February 3, 2023, and Plaintiff proceeded *pro se* (NYSCEF Doc No. 101, decision and order). Plaintiff moved to renew and reargue that court's February 3, 2023, and the motion was denied (NYSCEF Doc Nos. 103, 108). Nevertheless, in subsequent filings Plaintiff added the NYPD and NYPD Commissioners Raymond Kelly, William Bratton, and James O'Neill (the "Police Commissioners") to the case caption (see NYSCEF Doc Nos. 112, 141).

On September 18, 2023, Plaintiff filed yet another motion to amend to add a *Monell* cause of action and for an order imposing sanctions for the City's alleged failure to respond to Plaintiff's discovery demands, answer interrogatories, produce documents, and prevent spoliation and destruction of police records (NYSCEF Doc No. 112, notice of motion). The City opposed and cross-moved pursuant to CPLR §3130 for a protective order with respect to the interrogatories served by Plaintiff (NYSCEF Doc No. 118, notice of cross-motion). Plaintiff then filed a self-styled "safe haven" motion which demanded the City withdraw its cross-motion or risk an award of sanctions (NYSCEF Doc No. 141).

Both motions were decided by a decision and order of this court dated March 5, 2024, which denied the motion to amend, granted Plaintiff's motion to compel in part, granted the City's cross-motion for a protective order, and denied the so-called "safe-haven" motion (NYSCEF Doc No. 144, decision and order). Plaintiff moved to vacate the March 5, 2024 order, and the City opposed cross-moved for an order pursuant to CPLR § 3130 enjoining Plaintiff from filing documents seeking affirmative relief absent prior approval from the court (NYSCEF Doc Nos. 148, 150). By order and decision dated July 2, 2025, this court denied the motion to vacate and granted the cross-motion for a protective order enjoining Plaintiff from filing documents seeking affirmative relief absent prior approval from the court (NYSCEF Doc No. 9, decision and order at 2).

On June 29, 2025, Plaintiff filed the instant motion seeking (1) summary judgment against defendants Detective Nellie Malave (Shield No. 6977) ("Detective Malave"), Sgt. David Shimshi s/h/a Sergeant Shimshi ("Sergeant Shimshi"), and Police Officer Ross ("Officer Ross"), (2) an award of punitive damages "in the maximum amount permitted by law," (3) summary judgment against the Police Commissioners for "promulgating unconstitutional practices," (4) granting summary judgment against the Police Commissioners for "constitutional indifference" for continuing Sergeant Shimshi's employment with the NYPD, (5) "reinstating" the Police Commissioners as defendants in the case caption "based on newly discovered evidence," (6) "reinstating" Bellevue Medical Center ("Bellevue") to the case caption, (7) "vacating the court's previous orders that claims against the individual defendant NYPD officers must be filed before the Court of Claims," (8) striking the City's answer and sanctioning the Defendants and Corporation Counsel for "engaging in *ex parte* fraud and obstruction of justice, spoliation and improper redactions, (9) striking the City's answer as a sanction for "submitting fraudulent unserved documents to the court that the Plaintiff was somehow 'disbarred,'" (10) finding that

Plaintiff can recover damages jointly and severally against Bellevue and the NYPD officers named in this action, and (11) granting sanctions against Corporation Counsel “because Plaintiff’s private treating physicians at Mount Sinai continue to complain of repetitious harassment after medical records were sent at least three times since 2014” (NYSCEF Doc No. 186, notice of motion). The City opposes the motion on legal and factual grounds and argues, *inter alia*, that Plaintiff’s motion was filed in violation of this court’s July 2, 2025 order and that Plaintiff has failed to meet her burden on the motion.

DISCUSSION

A motion for summary judgment “shall be granted if, upon all the papers and proofs submitted, the cause of action or defense shall be established sufficiently to warrant the Court as a matter of law in directing judgment in favor of any party” (CPLR § 3212[b]). The moving party bears the initial burden of proving a *prima facie* entitlement to summary judgment on the cause of action or defense, by tendering evidence in admissible form eliminating any material issues of fact (*Zuckerman v City of New York*, 49 NY2d 557, 562 [1980]). “The proponent of a motion for summary judgment must demonstrate that there are no material issues of fact in dispute, and that it is entitled to judgment as a matter of law” (*Dallas-Stephenson v Waisman*, 39 AD3d 303, 306 [1st Dept 2007]). The movant’s burden is “heavy,” and “on a motion for summary judgment, facts must be viewed in the light most favorable to the non-moving party” (*William J. Jenack Estate Appraisers & Auctioneers, Inc. v Rabizadeh*, 22 NY3d 470, 475 [2013] [internal quotation marks and citation omitted]). Upon proffer of evidence establishing a *prima facie* case by the movant, the party opposing a motion for summary judgment bears the burden of producing evidentiary proof in admissible form sufficient to require a trial of material questions of fact (*Zuckerman v City of New York*, 49 NY2d 557, 562 [1980]). “A motion for summary judgment should not be granted where the facts are in dispute, where conflicting inferences may be drawn from the evidence, or where there are issues of credibility” (*Ruiz v Griffin*, 71 AD3d 1112, 1115 [2d Dept 2010] [internal quotation marks and citation omitted]).

On this motion, Plaintiff has entirely failed to meet her burden with respect to summary judgment or any other relief. At the outset, a motion for summary judgment “shall be supported by affidavit, by a copy of the pleadings and by other available proof, such as depositions and written admissions” (CPLR § 3212 [b]). The motion must be supported by evidence in admissible form (*Zuckerman*, 49 NY2d at 562). In support of her motion, Plaintiff proffers only a self-serving “Affirmation and Declaration in Support of Motion” and several exhibits, including a copy of police disciplinary records that were the subject of the March 5, 2024 order, the September 3, 2024 order, a letter from the Criminal Court of the City of New York regarding Plaintiff’s request for records, letters to the United States Court of Appeals for the Federal Circuit regarding an unrelated matter, a screenshot of portions of the electronic docket for this matter, an altered copy of a notice of appeal Plaintiff filed in this action,³ additional copies of this court’s prior orders, assorted case

³ The original Notice of Appeal filed in this action on October 1, 2024 indicates an appeal taken of this court’s March 5, 2024 order, handwritten as “3/5/24” (NYSCEF Doc No. 181, notice of appeal). The copy attached to Ms. Weissbrod’s motion has, without explanation, “7-2-24” written over “3/5/24” in blue ink (NYSCEF Doc No. 187, exhibit 6).

law, and a certificate of standing for the State Bar of California (NYSCEF Doc No. 187, affirmation and exhibits 1-10). Plaintiff's "affirmation" is rife with conjecture, conclusory statements, unsupported allegations, and legal arguments in violation of Uniform Rule 202.8 (c) (22 NYCRR 202.8 (c) ["Affidavits shall be for a statement of the relevant facts, and briefs shall be for a statement of the relevant law"]). None of the annexed exhibits are submitted in admissible form as they are unverified, uncertified, lack the proper foundation, and are largely irrelevant with respect to the issues raised. These submissions are wholly insufficient to meet Plaintiff's *prima facie* burden. Furthermore, the facts of this case are heavily disputed and countless issues of material fact exist which require a trial (*see e.g.*, NYSCEF Doc No. 195, Malave aff in opposition). As such, the motion for summary judgment is denied.

Plaintiff has similarly failed to meet her burden to the extent that Plaintiff seeks to vacate any prior orders of this court. Although it is unclear which order or orders are the intended subject Plaintiff's motion, Plaintiff references vacatur of "the court's previous orders that claims against the individual defendant NYPD officers must be filed before the NY Court of Claims," "past orders of this Court," "certain *sua sponte* orders," and "orders entered without jurisdiction over Plaintiff as a NY attorney" (NYSCEF Doc No. 187, notice of motion at 2, aff in support at 4, 14). However, none of this court's prior orders direct that claims against individual officers must be brought in the Court of Claims, nor have any orders referenced Plaintiff's attorney status.⁴ Moreover, Plaintiff has made no showing that any purportedly newly discovered evidence would have changed the outcome of any prior orders (*see* CPLR § 5015, 2221). Records regarding the individual defendants may be relevant to this matter, but these records alone do not conclusively prove Plaintiff's claims. Therefore, this portion of the motion is also denied.

Turning to the remainder of Plaintiff's motion, Plaintiff has made no showing of willful and contumacious, frivolous, or improper conduct to warrant a sanction against Corporation Counsel (*see* 22 NYCRR 130-1.1; Judiciary Law § 487; *Turk Eximbank-Export Credit Bank of Turkey v Bicakcioglu*, 81 AD3d 494, 494 [1st Dept 2011]). That portion of Plaintiff's motion that seeks to "reinstate" the Police Commissioners and Bellevue as party defendants in this action is equally meritless. The Police Commissioners have never been parties to this action, nor has Plaintiff at any point stated any grounds to add them as party defendants. Conversely, Bellevue has been a party to this action since its inception, where it is represented by Corporation Counsel. To the extent not otherwise addressed here, the court has also considered the remainder of Plaintiff's arguments and finds them meritless and unpersuasive. Therefore, the motion is denied in its entirety.

⁴ Plaintiff takes issue with the characterization of her as "disbarred" and repeatedly asserts that she "is not admitted in NYS" (NYSCEF Doc No. 187, notice of motion at 2, Weissbrod aff at 6, 7, 17). Nevertheless, Plaintiff was admitted to practice law in New York in the State of New York at a Term of the Appellate Division of the Supreme Court for the Third Judicial Department on June 4, 1985, and was found guilty of professional misconduct by an order of the Term of the Appellate Division of the Supreme Court for the First Judicial Department dated March 18, 2008 (*In re Gurvey*, 102 AD3d 197, 198 [1st Dept 2012], *lv dismissed & denied*, 20 NY3d 1085 [2013]; *see also* NYSCEF Doc No. 97, letter from Plaintiff in which she states she "resigned from the Third Dept. in 1998"). The Appellate Division, First Department affirmed this finding in an order dated December 4, 2012 wherein the Court held that Plaintiff's "pursuit of frivolous and vexatious litigation, as well as her misrepresentations to the court, warrant suspension" (*id.* at 200). As a result, Plaintiff was suspended from the practice of law in New York (*id.*). The New York Unified Court System's Attorney Search page indicates that Plaintiff's current registration status is "suspended" (Attorney Online Services - Search, <https://iapps.courts.state.ny.us/attorneyservices/search>, last accessed September 10, 2025).

Finally, it is incumbent on the court to address Plaintiff’s brazen violation of this court’s protective order that enjoined Plaintiff from filing documents seeking affirmative relief absent prior approval of the court (NYSCEF Doc No. 171, decision and order at 2). This order was issued upon the City’s well-founded showing that the Plaintiff “engaged in a pattern of frivolous and vexatious filings,” including “repeated filings, containing personal accusations against the City and its attorneys, [] indicative of an intent to harass rather than seek legitimate judicial relief” (NYSCEF Doc No. 171, decision and order at 2). On this motion, which Plaintiff did not seek leave to file, Plaintiff’s voluminous and meritless motion is replete with misinformation, irrelevant material, conjecture, *ad homidium* attacks against the Defendants, city officials and court personnel, Corporation Counsel, and Justices of this court. Plaintiff has engaged in this misconduct repeatedly in this matter and has a documented history of similar misconduct in other matters in New York State and Federal Courts (*see In re Gurvey*, 102 AD3d 197, 198 [1st Dept 2012], *lv dismissed & denied*, 20 NY3d 1085 [2013] [citing 10-year litigation where Plaintiff’s “mean spirited and vexatious” behavior resulted in a sanction for “years of vituperative litigation,” frivolous motion practice, and intentional misrepresentations to the court”]; *Gurvey v Cowan, Liebowitz & Latman, P.C.*, US Dist Ct, SD NY, 06 Civ 1202, 2015 WL 5459655, Pitman, M.J. [detailing Plaintiff’s misconduct in other matters]). Considering these factors, the court reiterates that Plaintiff is enjoined from filing *any* documents seeking affirmative relief absent prior approval of the court, which may be sought by email to the court at SFC-PART5@nycourts.gov (with all parties to this litigation copied). Any violation of this directive will result in immediate sanction against Plaintiff.

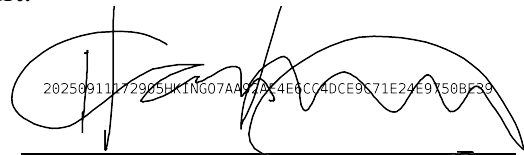
Accordingly, it is

ORDERED that the motion for summary judgment and other relief (Mot Seq. 10) is denied in its entirety; and it is further

ORDERED that Plaintiff is enjoined from filing *any* documents seeking affirmative relief absent prior approval of the court, which may be sought by email to the court at SFC-PART5@nycourts.gov (with all parties to this litigation copied); and it is further

ORDERED that any violation of this directive will result in immediate sanction against Plaintiff.

This constitutes the order and decision of the court.



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HASA A. KINGO, J.S.C.

9/11/2025

DATE

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