SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: **HON. RICHARD TSAI** **PART** **21**

Justice

----------X

VALERIE BRITT, VERNICE DESPORT, JAMES MCENROE, HELEN MURPHY, and SHEILA MURRAY,

Plaintiffs,

- v -

METROPOLITAN TRANSPORTATION AUTHORITY, a public benefit corporation, and NEW YORK CITY TRANSIT AUTHORITY, a public benefit corporation,

Defendants.

----------X

INDEX NO. 151336/2022

MOTION DATE 03/07/2025

MOTION SEQ. NO. 003

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document numbers (Motion 003) 45-64, 86-88, 153 were read on this motion to/for PARTIES - ADD/SUBSTITUTE/INTERVENE.

In this putative class action, plaintiffs, who are persons with disabilities who use the Access-A-Ride paratransit system (AAR), allege that defendants' failure to offer discounts to AAR users when such discounts are offered to users of subways and buses constitutes discrimination on the basis of disability, in violation of the New York City Human Rights Law (NYCHRL).

Defendants Metropolitan Transportation Authority (MTA) and New York City Transit Authority (NYCTA) now move to join the City of New York (City) to this lawsuit, arguing that City is either a necessary party or permissive party to the lawsuit because the MTA has a contract with the City of New York that purportedly mandates the MTA to charge a non-discounted fare for Access-A-Ride trips. Plaintiffs oppose the motion.[1] Oral argument was held on the stenographic record on March 7, 2005.[2]

Defendants contend that the City is a necessary party to this lawsuit because:

> "(1) the fare set on AAR is mandated by a contract between MTA and the City (the 'Paratransit Agreement') that requires the AAR fare to be equivalent to a one-trip non-discounted fare on fixed-route public buses and subways ("Fixed-Route Public Transit") and (2) the City currently

[1] The City e-filed a letter stating that it was not a necessary party to this action (*see* NYSCEF Doc. No. 55). However, this court informed the City that it could not consider the letter because the City was not a party to the action, the City had not intervened in the action, and the City did not request any permission to submit any amicus briefs (*see* NYSCEF Doc. No. 88).
[2] A transcript of the oral argument was filed in connection with plaintiff's motion for class action certification (Seq. No. 006) (*see* NYSCEF Doc. No. 153).

finances nearly all of the operations of AAR pursuant to both the terms of the Paratransit Agreement and state law" (defendants' memo of law in support of mot, at 1 [NYSCEF Doc. No. 50).

Article 5.01 of the Paratransit Agreement between the City and MTA dated May 28, 1993 states, in relevant part: "Trips Within New York City. The Paratransit fare for trips within New York City *shall be that charged* on *a non-discounted basis* for a one-fare trip on non-express mass transit operated by the NYCTA in New York City as such fare may be changed from time to time by the MTA Board" (*see* defendants' Exhibit 1 in support of mot, Paratransit Agreement at 12-13 [NYSCEF Doc. No. 47] [emphasis added]).

Defendants argue that if the City were not joined as a party to this lawsuit and plaintiffs were to prevail, then defendants would be put in the position of violating the plain, mandatory language of the Paratransit Agreement with the City to comply with the judgment in this case, which would not be binding upon the City (*see* defendants' memo of law in support of mot, at 8).

In opposition, plaintiffs argue that the Paratransit Agreement does not prohibit defendants from extending discounts to AAR users (*see* plaintiff's memo of law in opposition to mot, at 11 [NYSCEF Doc. No. 56]).

"Necessary parties are those 'who ought to be parties if complete relief is to be accorded between the persons who are parties to the action or who might be inequitably affected by a judgment in the action' (CPLR 1001[a])" (*Matter of Morgan v de Blasio*, 29 NY3d 559, 560 [2017]).[3] "A paradigm example of a case falling within the first category is one in which the defendant is exposed to double or multiple liability or inconsistent obligations" (Vincent C. Alexander, Prac Commentaries, McKinney's Cons Laws of NY, CPLR C1001:1).

Here, the court agrees with defendants that the MTA could potentially face inconsistent obligations between the NYCHRL, on the one hand, and the Paratransit Agreement, on the other, if plaintiffs were to prevail in this action. In that instance, the Paratransit fare for trips would be that charged on a discounted basis instead of a non-discounted basis, contrary to Article 5.01 of the Paratransit Agreement.

Plaintiffs argue that the court could interpret the Paratransit Agreement in such a way that it would be consistent or harmonized with fare discounts—that Article 5.01 did not explicitly state that a Paratransit fare could not be discounted. To illustrate, the base Paratransit fare would be that charged on a non-discounted basis, but that base fare could also be eligible for discounts. However, that argument assumes that there would be AAR users would not be eligible for any discounts that were available to users of subways and buses

[3] The court can entertain a motion for joinder, even though the proposed additional defendant had not been served with it (*Levykh v Laura*, 274 AD2d 418, 418 [2d Dept 2000]).

under the Fare Discount Program, such that there would still exist a base Paratransit fare that would be charged on a non-discounted basis. If every AAR user would be entitled to a discount, then the Paratransit fare would effectively be charged on a discounted basis rather than a non-discounted basis.

The court need not determine, at this juncture, whether the Paratransit Agreement could be interpreted so as not to subject the MTA to inconsistent obligations. In any interpretation of the Paratransit Agreement, the City would need to be a party to this action to be bound by such an interpretation, which reinforces the necessity for joinder.

Article 7.18 of the Paratransit Agreement, the severability clause, does provide that "if any provision of this Agreement is determined by a court of final jurisdiction to be unlawful, that provision shall be deemed of no effect and shall, upon the application of either party, be stricken from the Agreement without affecting the binding force of the Agreement as it shall remain after the deletion of such provision." However, if Article 5.01 of the Paratransit Agreement were an irreconcilable, contractual impediment to extending discounts to AAR users, then the City, who is a party to the Paratransit Agreement, would have to be joined to this lawsuit to be bound by any declaration that Article 5.01 is void or stricken from the Paratransit Agreement.

Joanne S. v Carey (115 AD2d 4 [1st Dept 1986]), which plaintiffs cite, is distinguishable. In *Joanne S.*, the Appellate Division, First Department reversed the decision of the lower court, which had granted the motion of the defendants-respondents to join two New York City Commissioners and their agencies, the New York City Human Resources Administration (HRA) and the New York City Department of Health, Mental Retardation and Alcoholism Services (MHMRAS). The Appellate Division reasoned that the city agencies were neither necessary nor indispensable parties to the action because "the State is the principal executor of the program" (*id.* at 8).

Defendants do not dispute plaintiffs' claim that they have the responsibility for all paratransit service. However, unlike *Joanne S.*, contractual rights are involved here; the City is a party to the Paratransit Agreement, which is more than just a local government unit who has to cooperate with defendants by law.

In light of the court's determination that the City is a necessary party because of the colorable possibility of inconsistent liabilities to the MTA, the court does not reach defendants' alternative argument that the City is a necessary party because the City would be inequitably affected by a judgment in this action due to an increased financial impact—i.e., that the City would have to make up for any gap in funding from the reduced revenue generated by AAR if plaintiffs prevailed (*see Charalabidis v Elnagar*, 188 AD3d 44, 49 [2d Dept 2020] ["Courts may dispose of one or more branches of lesser importance as being without

merit or rendered academic by other aspects of the order"]). Neither does this court need to decide whether the City may be joined as a permissive party.

CONCLUSION & ORDER

Accordingly, it is hereby **ORDERED** that defendants' motion to join the City of New York as a necessary party to the action is **GRANTED**, and the City of New York shall be joined in the above-entitled action as a party defendant, and it is further

ORDERED that plaintiffs shall serve a supplemental summons and amended complaint upon the City of New York and upon defendants, within 25 days after service of a copy of this decision and order with notice of entry.

20250915181658RTSAIECC20735F5E147DDBB8B9B7D360B2DB5

9/15/2025
DATE

RICHARD TSAI, J.S.C.

CHECK ONE:		**CASE DISPOSED**		**X**	**NON-FINAL DISPOSITION**		
	X	**GRANTED**	**DENIED**		**GRANTED IN PART**		**OTHER**
APPLICATION:		**SETTLE ORDER**			**SUBMIT ORDER**		
CHECK IF APPROPRIATE:		**INCLUDES TRANSFER/REASSIGN**			**FIDUCIARY APPOINTMENT**		**REFERENCE**