

Morales v 1199 Hous. Corp.

2025 NY Slip Op 33607(U)

September 9, 2025

Supreme Court, New York County

Docket Number: Index No. 150491/2021

Judge: Lynn R. Kotler

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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. LYNN R. KOTLER PART 08

Justice

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INDEX NO. 150491/2021

SERGIO MORALES,

09/23/2024,

Plaintiff,

MOTION DATE 10/30/2024

- v -

MOTION SEQ. NO. 001 002

1199 HOUSING CORPORATION, NEW YORK
PREPARATORY SCHOOL, INC., SKYLINE RESTORATION
INC.,

DECISION + ORDER ON
MOTION

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 77, 78, 103, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 163, 165, 167, 178, 179, 180, 181, 182

were read on this motion to/for MISCELLANEOUS

The following e-filed documents, listed by NYSCEF document number (Motion 002) 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 162, 164, 166, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177

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

Upon the foregoing documents, this motion is decided as follows. This is a labor law action arising from a construction site accident.

In motion sequence 1, Third-Party Defendant / Second Third-Party Plaintiff, ONETEAM RESTORATION INC. ("OneTeam") moves to amend their answer to assert an additional affirmative defense of fraud against plaintiff SERGIO MORALES ("Morales") pursuant to CPLR 3025(b). Morales opposes the motion and cross-moves for sanctions pursuant to 22 NYCRR 130-1.1. OneTeam opposes Morales' cross-motion and improperly cross-moves for sanctions.

In motion sequence 2, SKYLINE RESTORATION INC. and 1199 HOUSING CORPORATION (“Skyline”, “1199 Housing”, or collectively “Skyline Defendants”) move to amend their answer to assert a counterclaim and affirmative defense of fraud against Morales pursuant to CPLR 3025(b). Morales opposes and cross-moves for sanctions pursuant to 22 NYCRR 130-1.1.

Motion sequences one and two are hereby consolidated for the court’s consideration and disposition in this single decision/order. For the reasons that follow, motion sequence 1 and 2 and Morales’ cross-motions are denied.

Background

On December 22, 2020, while working at the premises located at 420 East 111th Street, New York, New York 10029, Morales alleges he suffered serious injuries when a co-worker dropped a board that fell and hit his hard hat.

OneTeam and the Skyline Defendants now seek to amend their answer to add an affirmative defense of fraud based on a recent federal case in the Eastern District of New York. In that RICO action, medical providers and law firms, including those who treated and represent Morales, are accused of committing fraud by colluding to provide unnecessary medical treatments in order to inflate the value of the claims.

OneTeam and the Skyline Defendants further argue that Morales has provided conflicting testimony about the location of the accident and that his medical providers conclusions of disability lacked objective findings based on the findings of defendant’s examining physicians.

Discussion

A fraud claim must allege the basic facts to establish the elements of the cause of action (*Pludeman v Northern Leasing Sys., Inc.*, 10 NY3d 486, 492 [2008]). “The elements of a cause of action for fraud require a material misrepresentation of a fact, knowledge of its falsity, an

intent to induce reliance, justifiable reliance by the plaintiff and damages” (*Eurycleia Partners, LP v Seward & Kissel, LLP*, 12 NY3d 553, 559 [2009]). In order to satisfy CPLR 3016 (b), an action or defense based upon fraud be pled with “facts suffice to permit a reasonable inference of the alleged misconduct” (*id.* at 559 [internal quotation marks omitted]). Conclusory allegations are insufficient to give rise to a claim of fraud (*id.* at 559-61).

Morales argues that OneTeam’s and Skyline Defendants’ proposed amendments are palpably deficient and devoid of merit and that the pleading parties have failed to assert all of the elements of fraud. Both OneTeam and Skyline Defendants have failed to plead fact sufficient to permit a reasonable inference of fraud and further fail to satisfy the basic elements required.

While the Court recognizes the seriousness of the allegations included in the federal RICO action, the allegations are against the law firm and medical providers are not against the Morales. The parties have not put forward facts sufficient to support an allegation of fraud against Morales and only offer speculative assertions.

Moreover, both OneTeam’s and Skyline Defendants have failed to successfully assert all of the elements of fraud. Neither motion has shown that Morales made a material representation upon which the defendants relied, or that defendants suffered any damages.

Morales’ cross-motions for sanctions in motion sequence 1 and 2 are both denied. OneTeam’s cross-motion for sanctions is procedurally improper and denied (*see* CPLR 2215).

Conclusion


Accordingly, it is hereby

ORDERED that ONETEAM RESTORATION INC.’s and SKYLINE RESTORATION INC. and 1199 HOUSING CORPORATION’s motions (motion sequence 1 and 2) seeking leave to amend their pleadings are denied; and it is further

ORDERED that Morales cross-motions seeking sanctions against ONETEAM RESTORATION INC. and SKYLINE RESTORATION INC. and 1199 HOUSING CORPORATION are denied; and it is further

ORDERED that ONETEAM RESTORATION INC.'s improper cross-motion for sanctions is denied.

Any requested relief not expressly addressed herein has nonetheless been considered and is hereby denied and this constitutes the decision and order of the court.



 LYNN R. KOTLER, J.S.C.

9/9/2025

 DATE

CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	DENIED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION	
	<input type="checkbox"/>	GRANTED			<input type="checkbox"/>	GRANTED IN PART	<input type="checkbox"/> OTHER
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER			<input type="checkbox"/>	SUBMIT ORDER	
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN			<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input type="checkbox"/> REFERENCE