

20 Broad St. Owner LLC v Sonder USA, Inc.

2025 NY Slip Op 33901(U)

October 9, 2025

Supreme Court, New York County

Docket Number: Index No. 653493/2020

Judge: Debra A. James

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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. DEBRA A. JAMES

PART 59

Justice

-----X

20 BROAD STREET OWNER LLC,

Plaintiff,

- v -

SONDER USA, INC. AND, SONDER CANADA, INC,
SONDER GROUP HOLDINGS LLC, SONDER HOLDINGS
INC., XYZ CORP., JOHN DOE, and JANE DOE,

Defendants.

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INDEX NO. 653493/2020

MOTION DATE 04/22/2025

MOTION SEQ. NO. 011

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 011) 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512

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

ORDER

Upon the foregoing documents, it is

ORDERED that to the extent that it seeks to amend the complaint to delete paragraph 34(e) of the original complaint with respect Section 19.3 of the Amended and Restated Lease, as to the measure of damages, the motion, pursuant to CPLR 3025(b), of plaintiff to amend the complaint is granted; and it is further

ORDERED to the extent that it seeks to amend the complaint to conform to the proof with respect to damages that accrued since the filing of the original complaint, the motion, pursuant to CPLR 3025(c), of plaintiff is denied, as premature, but without

prejudice to move, before resting its case, before the factfinder;
and it is further

ORDERED that within fifteen (15) days of entry of the herein
order, plaintiff shall file the complaint amended as aforesaid;
and it is further

ORDERED that the defendants shall file an answer to the
amended complaint or otherwise respond thereto within twenty (20)
days the date of such service; and it is further

ORDERED to the extent that it seeks a protective order with
respect to records pertaining to market value of the Premises, the
motion, pursuant to CPLR § 3103(a), of plaintiff is denied; and it
is further

ORDERED that counsel shall post on NYSCEF a proposed status
conference order or competing proposed status conference order(s)
at least two days before November 20, 2025, on which date counsel
shall appear via Microsoft Teams, unless such appearance, by joint
request sent to IAS Part 59 Clerk (SFC-Part59-Clerk@nycourts.gov),
be waived by the court.

DECISION

This court agrees with plaintiff that its proposed amendment
to the complaint that removes one of the measure of damages
originally sought is meritorious. Moreover, defendants have not
established that as a result of the amendment, they

have been "hindered in the preparation of [their] case or [have] been prevented from taking some measure in support of [their] position. Simply because defendants may be exposed to greater liability or may be required to spend more time in the preparation of their case does not constitute prejudice to defendants.

Henry v Split Rock Rehabilitation and Health Care Ctr., LLC, 205 AD3d 540, 540 (1st Dept 2022) (citations omitted).

However, this court denies, without prejudice, the motion of plaintiff with respect to conforming with the proof its pleadings concerning damages that have accrued during the pendency of the action. This court agrees with defendants that such motion is premature. Plaintiff may move to conform its pleadings to the proof pursuant to CPLR 3025(c), once it has put forth all its evidence and rested its case before the factfinder. See Thomas v 560-566 Hudson LLC, 219 AD3d 1193, 1195 (1st Dept 2023) ("The court, [in determining motion for summary judgment,] improperly held that plaintiffs could not seek damages accruing after the filing of the complaint").

To the extent that, pursuant to CPLR § 3103(a), plaintiff seeks a protective order precluding the enforcement of defendants' demand for and the prior discovery conference order that directed production of records pertaining to market value of the Premises, this court disagrees that such records are immaterial or utterly irrelevant, even as to issues ultimately joined on the complaint as now amended. See Ledonne v Orsid Realty Corp., 83 AD3d 598,

599 (1st Dept 2011). See also Glenbrook Co v Phillips, 243 NY 186 (1926):

[T]he court erred in refusing to admit evidence of the fair market value of the plaintiff's premises as to the question [of the determination of a fair and reasonable rental].

Debra A. James

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| <u>10/9/2025</u> | | | <u>DEBRA A. JAMES, J.S.C.</u> | |
| DATE | | | | |
| CHECK ONE: | <input type="checkbox"/> | CASE DISPOSED | <input checked="" type="checkbox"/> | NON-FINAL DISPOSITION |
| | <input type="checkbox"/> | GRANTED | <input type="checkbox"/> | DENIED |
| APPLICATION: | <input type="checkbox"/> | SETTLE ORDER | <input checked="" type="checkbox"/> | GRANTED IN PART |
| CHECK IF APPROPRIATE: | <input type="checkbox"/> | INCLUDES TRANSFER/REASSIGN | <input type="checkbox"/> | SUBMIT ORDER |
| | | | <input type="checkbox"/> | FIDUCIARY APPOINTMENT |
| | | | <input type="checkbox"/> | OTHER |
| | | | <input type="checkbox"/> | REFERENCE |