

22 Warren St. LLC v 122 E. 25th St. Condominium

2025 NY Slip Op 35190(U)

December 29, 2025

Supreme Court, New York County

Docket Number: Index No. 154714/2024

Judge: Emily Morales-Minerva

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: PART 42M

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22 WARREN STREET LLC

Plaintiff,

- v -

122 EAST 25TH STREET CONDOMINIUM,

Defendant.

INDEX NO. 154714/2024

MOTION DATE 09/17/2025

MOTION SEQ. NO. 001

**DECISION + ORDER ON
MOTION**

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30

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

APPEARANCES:

Smith & Shapiro, New York, NY (Harry Shapiro, Esq., of counsel), for plaintiff.

Milber Makris Plousadis & Seiden, LLP, Woodbury, NY (Jeremy S. Simon, Esq., of counsel) for defendant.

HON. EMILY MORALES-MINERVA, J.S.C.

In this action wherein plaintiff 22 WARREN STREET LLC seeks a declaratory judgment, plaintiff moves, by notice of motion (sequence number 01), pursuant to CPLR § 3025 (b),¹ for leave to amend its complaint to assert an additional cause of action

¹ Rule 3025 (b) of the CPLR provides, "A party may amend his or her pleading, or supplement it by setting forth additional or subsequent transactions or occurrences, at any time by leave of court or by stipulation of all parties. Leave shall be freely given upon such terms as may be just including the granting of costs and continuances. Any motion to amend or supplement pleadings shall be accompanied by the proposed amended or supplemental pleading clearly showing the changes or additions to be made to the pleading" (emphasis added).

against defendant 122 EAST 25TH STREET CONDOMINIUM for a permanent injunction. Defendant appears and opposes the motion.

For the reasons explained below, the motion (seq. no. 01) is granted entirely.

Leave to amend a pleading should be freely given absent a showing of substantial prejudice or surprise, unless the proposed amendment is palpably insufficient or patently devoid of merit (see CPLR § 3215 [b]; see also JP Morgan Chase Bank, N.A. v Low Cost Bearings N.Y., Inc., 107 AD3d 643, 644 [1st Dept 2013]). "On a motion for leave to amend, plaintiff need not establish the merit of its proposed new allegations, but simply show that the proffered amendment is not palpably insufficient or clearly devoid of merit" (MBIA Ins. Corp. v Greystone & Co., Inc., 74 AD3d 499, 500 [1st Dept 2010] [internal citation omitted]).

Further, "prejudice is more than the mere exposure of the party to greater liability" (Kismo Apts., LLC v Gandhi, 24 NY3d 403, 411 [2014]). "Prejudice requires some indication that the defendant has been hindered in the preparation of his case or has been prevented from taking some measure in support of his position" (Cherebin v Empress Ambulance Serv., Inc., 43 AD3d 364, 365 [1st Dept 2007], quoting Loomis v Civetta Corinno Const. Corp., 54 NY2d 18, 23 [1981]).

Here, plaintiff seeks to amend its complaint to include one additional cause of action (see New York State Court Electronic Filing System [NYSCEF] Doc. No. 27, plaintiff's memorandum of law in support, and Doc. No. 18, proposed amended complaint). Though defendant argues that it will be prejudiced by the proposed amendment because it will "delay resolution of this action", this argument is unavailing (NYSCEF Doc. No. 28, defendant's memorandum of law in opposition). This litigation is in its initial phase, discovery is in its infancy, and a deadline for filing the note of issue has not yet been scheduled (see Kocourek v Booz Allen Hamilton Inc., 85 AD3d 502, 505 [1st Dept 2011] ["[T]here is no prejudice to defendants because the litigation is still in its initial phase"]; see also Ayers v Dormitory Authority of State of New York, 165 AD3d 441, 443 [1st Dept 2018]).

While defendant also argues the merits of the proposed cause of action, plaintiff, at this stage, need not establish such -- plaintiff must only show that the "proffered amendment is not palpably insufficient or clearly devoid of merit", which plaintiff has done (see Sorge v Gona Realty, LLC, 188 AD3d 474, 475 [1st Dept 2020]).

Accordingly, it is hereby

ORDERED that the motion (seq. no. 01) of plaintiff 22

WARREN STREET LLC is granted; it is further

ORDERED that the amended complaint in the form annexed to the motion shall be deemed served upon defendant 122 EAST 25TH STREET CONDOMINIUM upon service of a copy of this order, with notice of entry; it is further

ORDERED that plaintiff shall serve a copy of this order with notice of entry on defendant within ten days of such entry; it is further


ORDERED that defendant shall file an answer to the amended complaint within thirty days of such service; it is further

ORDERED that the parties shall appear for a preliminary conference in Part 42M, Courtroom 574, 111 Centre Street on April 15, 2026 at 12:00 P.M.; and it is further

ORDERED that the Clerk of Court shall mark the file accordingly.

THIS CONSTITUTES THE DECISION AND ORDER OF THE COURT.

12/29/2025
DATE


EMILY MORALES-MINERVA, J.S.C.

CHECK ONE: CASE DISPOSED DENIED NON-FINAL DISPOSITION

APPLICATION: GRANTED GRANTED IN PART OTHER

CHECK IF APPROPRIATE: SETTLE ORDER SUBMIT ORDER FIDUCIARY APPOINTMENT

INCLUDES TRANSFER/REASSIGN REFERENCE