

Jouavel v City of New York
2026 NY Slip Op 30185(U)
January 6, 2026
Supreme Court, Kings County
Docket Number: Index No. 511670/2020
Judge: Lisa Lewis
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At City Part 25 of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse, located at Civic Center, Borough of Brooklyn, City and State of New York, on the 6th day of January, 2026

P R E S E N T :
HON. LISA LEWIS

Justice

SEAN JOUAVEL,

Index No.: 511670/2020

Plaintiff,

**AMENDED DECISION &
ORDER**

-against-

Motion Sequence: 3,5,6

THE CITY OF NEW YORK, et al

Defendants.

The following papers numbered 1 to read herein
Notice of Motion/Order to Show Cause/
and Affidavits (Affirmations) Annexed
Cross Motion and Affidavits (Affirmation) Annexed
Answers/Opposing Affidavits (Affirmations)
Reply Affidavits (Affirmations)
Affidavit (Affirmation)
Other Papers

Papers Numbered

30-31; 61-62

64-65

39-44; 66

55

Upon the foregoing papers, it is ordered that the motions are determined as follows:

Defendant The City of New York (“defendant”) moves for an order, pursuant to CPLR § 3211(a)(7) to dismiss all plaintiff’s federal § 1983 claims, to the extent they were pled, as there are no individuals named and are insufficiently pled, and all of plaintiff’s state law claims in their entirety for failing to comply with statutory mandates under general municipal law and all other causes of action as insufficiently pled (Seq. 3). Defendant subsequently moves for an order, pursuant to CPLR § 2221(a) to modify the Court’s order dated April 16, 2025 (“Order”) to dismiss all of plaintiff’s federal 42 U.S.C. § 1983 claims, as plaintiff failed to name any individual officer,

did not provide any proof of evidence to establish that any diligent effort was made to identify and name officers, the proposed amendments would be highly prejudicial to named officers, plaintiff cannot maintain federal claims against the defendant, and plaintiff did not cross move to amend nor attach a proposed amended summons and complaint, which is essential and required on any motion to amend; and pursuant to CPLR § 2221(d) for leave to reargue the decision of the Order, denying defendant's motion to dismiss plaintiff's federal claims (Seq. 5). Plaintiff cross moves for monetary sanctions upon the defendant and their attorneys (Seq. 6).

RELEVANT BACKGROUND AND PROCEDURAL HISTORY

Plaintiff commenced this action for personal injuries sustained on February 1, 2019, at approximately 10:30 PM when he was allegedly falsely arrested and imprisoned for 24 hours without cause. At the time, plaintiff was a passenger in a vehicle with two or three other passengers in the backseat operated by Kadis Mathurin. The vehicle was proceeding at Rochester Avenue at its intersection with Montgomery Street, Brooklyn, New York when an unmarked New York Police Department ("NYPD") motor vehicle pulled it over. All of the occupants in the vehicle were asked to step out of the vehicle, arrested, handcuffed and taken to the 77th Precinct where they were fingerprinted. Plaintiff was released from Kings County Central Bookings on February 2, 2019 without seeing a judge.

At oral argument on April 16, 2025, defendant's motion to dismiss (Seq. 3) was orally granted to the extent as to the federal claims and the states laws claims were adjourned to June 25, 2025. Plaintiff's attorney had informed the Court he was provided with the names of seven (7) individual police officers. The Order provides, *inter alia*, defendant's motion to dismiss plaintiff's federal claims (Seq. 3) is denied, plaintiff to amend the complaint on or before June 25, 2025 and the remaining aspects of defendant's motion was adjourned to June 25, 2025. Thereafter, defendant

brought a motion to reargue (Seq. 5), and plaintiff's cross motion to impose sanctions (seq. 6) followed. On September 3, 2025, the three motions were heard at oral argument and the court reserved decision.

PARTIES' CONTENTIONS

Defendant's Motion to Modify the Order and for Leave to Reargue (Seq.5)

Defendant argues the Order should be modified and corrected to grant dismissal of plaintiff's federal 42 U.S.C. § 1983 claims, as these claims are insufficiently pled. Defendant argues the Court overlooked matters of both fact and law. Defendant argues the Order acknowledged plaintiff needed to name an individual officer as a defendant as same permitted plaintiff to amend the complaint to include names of individual officers by June 25, 2025. Defendant argues, *inter alia*, plaintiff failed to name any individual officer as a defendant and failed to substitute or amend the caption to name individual officers prior to the expiration of the statute of limitations on June 16, 2022. Thus, it would be highly prejudicial to name officers three (3) years after the statute of limitations has expired on all plaintiff's federal § 1983 claims. With respect to the Monell claim, defendant argues the complaint failed to identify a specific practice or policy used by the NYPD.

Defendant argues plaintiff failed to establish his entitlement to the "relation back" doctrine, as he failed to show any potential named officers are united in interests with defendant and how defendant knew or should have known, but for the excusable mistake by plaintiff that an action would have been brought against him or her. Defendant argues there is no common interest or same jural relationship between it and the proposed defendant NYPD officers since they enjoy separate and distinct defenses. Specifically, defendant contends it is not vicariously liable for a

judgment for unnamed officers, and therefore there is no unity of interest within the meaning of the relation back doctrine.

Defendant also argues the Court should modify the Order to remove the section permitting plaintiff to amend his complaint, as this relief was never requested in plaintiff's motion (Seq. 3), defendant is prejudiced, as it was not provided notice that such argument needed to be fully briefed due to the lack of a notice of motion or cross-motion and the lack of request/argument in the papers. Moreover, plaintiff did not attach the required proposed amended pleading for such a request. Defendant further argues plaintiff also failed to establish entitlement to said relief given the facts of the case and the expiration of the statute of limitations. Therefore, defendant requests the Court modify the Order, removing the section permitting plaintiff to amend the complaint and grant the City's motion to dismiss the federal claims.

Plaintiff's Cross Motion to Impose Monetary Sanctions/Opposition to Defendant's Motion to Reargue (Seq. 6)

Turning to plaintiff's cross motion, plaintiff argues defendant's motion is frivolous, defendant did not appeal the Order and ignored the fact that plaintiff amended the complaint to name individual defendants pursuant to the Order. Plaintiff also opposes defendant's motion and argues CPLR § 2221(a) is not the proper vehicle to modify a prior order, and defendant failed to move to renew the prior motion pursuant to CPLR § 2221(e). Plaintiff also argues, pursuant to CPLR § 2221(d), defendant failed to point to any issue/matter overlooked or misapprehended by the Court in issuing the Order. Plaintiff argues the only argument defendant presented in the prior motion (Seq. 3) and the within motion (Seq. 5) is plaintiff failed to name the individuals defendants, which has been resolved by the Court. Plaintiff repeats that he has now named the

individual defendants, amended the summons and complaint, and thus defendant's argument is frivolous, redundant and moot.

Plaintiff notes defendant did not attach the Order or moving papers upon which the Order was decided nor make reference to the original papers within their motion to modify and reargue. Plaintiff argues such failure is fatal and requires outright denial of defendant's motion pursuant to CPLR § 2214(c). Plaintiff also notes the Court had conducted oral arguments and considered plaintiff's opposition to defendant's motion to strike his federal claims for failing to name the individual defendants and has not yet ruled upon plaintiff's state law claims on the prior motion (Seq. 3).

Defendant's Opposition to Plaintiff's Motion and Reply to Its Motion

Defendant argues its conduct of filing the motion (Seq. 5) was neither frivolous nor made in bad faith, and plaintiff cannot show defendant's conduct rises to the level of frivolous conduct. Defendant argues CPLR § 2221 is the proper vehicle to modify a prior order and that facts and law were overlooked. Defendant reiterates plaintiff failed to substitute or amend the caption to name individual officers prior to the expiration of the statute of limitations on June 16, 2022, and it is highly prejudicial to name officers after the statute of limitations has expired on all of plaintiff's federal 1983 claims.

Defendant also argues plaintiff did not file a motion or seek to amend his complaint to include the names of the individual officers in his cross-motion and failed to establish entitlement given the facts of the case, the expiration of the statute of limitations, and failure to attach a proposed amended summons and complaint. Thus, defendant is prejudiced, as it was not put on notice of this relief or that such issue needed to be fully briefed. Additionally, defendant argues

plaintiff is not entitled to relate back his claims against the newly named individual defendants because there is no unity of interest between the named officers and defendant.

Defendant argues plaintiff misinterpreted CPLR § 2214(c) since it made references to docket numbers in its papers and noted plaintiff did the same in his cross motion. Therefore, plaintiff's argument that defendant did not attach any underlying papers should fail.

Defendant's motion to dismiss (Seq. 3)

Defendant argues, *inter alia*, plaintiff's state law claims should be dismissed because plaintiff failed to comply with General Municipal Law § 50-H despite repeatedly given opportunities to do so. Defendant notes the 50-H was scheduled twice and set to proceed first on July 24, 2019 and then again on January 8, 2020. However, plaintiff did not appear and never sat for a 50-H hearing. Moreover, plaintiff's state law claim of false arrest and false imprisonment and respondeat superior should be dismissed as insufficiently pled in the complaint.

In opposition, plaintiff argues defendant's contention regarding plaintiff's compliance with General Municipal Law 50-H lacks merit. Plaintiff argues by letter dated May 15, 2019, defendant had scheduled a 50-H hearing for July 24, 2019. By letter dated October 25, 2019, the hearing was adjourned and rescheduled to January 8, 2020. Thereafter, by letter dated December 2, 2019, plaintiff was again served with the adjournment of 50-H hearing to January 8, 2020. However, plaintiff did not appear for the 50-H and never sat for a 50-H hearing.

In reply, defendant maintains its position and repeats its arguments from the moving papers that the causes of action are insufficiently pled. Defendant also argues no documentation was needed because plaintiff's own admission that he did not attend the 50-H hearing and the lack of documentation shows the inexistence of a 50-H hearing. Therefore, plaintiff failed to comply with General Municipal § 50-H, and plaintiff was not permitted to commence this action.

DISCUSSION

As an initial matter, Courts have held

“[p]ursuant to CPLR 2214(c), a party in an e-filed action may rely on e-filed papers and need not include those papers in its motion papers, but may make reference to them, giving the docket numbers on the e-filing system. However, the docket numbers on the e-filing system must be provided” (*Wydra v Brach*, 227 AD3d 727, 729 [2d Dept 2024]).

Here, the defendant properly placed the pleadings and the underlying Order before the Court in this electronically filed action by referencing them in its attorney affirmation in support of the motion, in effect, for leave to renew and giving the docket numbers on the e-filing system (*Sterling Trust Limited v Stern*, 237 AD3d 1236, 1237 [2d Dept 2025]). Moreover, the Court notes plaintiff also did not submit pleadings or the underlying Order and referenced the documents’ docket numbers in his cross motion for sanctions. Therefore, the plaintiff’s argument is without merit.

Turning to defendant’s motion (Seq. 5), CPLR § 2221(a)(2) provides, in pertinent part, “[a] motion for leave to renew or to reargue a prior motion, for leave to appeal from, or to stay, vacate or modify, an order shall be made, on notice, to the judge who signed the order.” “A motion for leave to reargue shall be based upon matters of fact or law allegedly overlooked or misapprehended by the court in determining the prior motion, but shall not include any matters of fact not offered on the prior motion” (CPLR § 2221[d][2]). “While the determination to grant leave to reargue lies within the sound discretion of the court, a motion for leave to reargue is not designed to provide an unsuccessful party with successive opportunities to reargue issues previously decided, or to present arguments different from those originally presented” (*Wells Fargo Bank, N.A. v Weiss*, 237 AD3d 1003, 1005 [2d Dept 2025][internal quotation marks and citations omitted]).

Here, it is undisputed there was no individual named police officers in the complaint at the time the defendant’s motion to dismiss was filed or at oral argument on April 16, 2025.

Nonetheless, the Order overlooked the fact that the defendant had prevailed on the substantive relief defendant was seeking in the motion to dismiss plaintiff's federal law claims (*D'Ablemont v D'Ablemont*, 197 AD3d 1091, 1093–1094 [2d Dept 2021]) and had incorrectly deemed the branch of defendant's motion to dismiss plaintiff's federal law claims as denied (*Partanio v Federal Realty Investment Trust*, 213 AD3d 685, 687 [2d Dept 2023]).

With respect to the branch of defendant's motion to remove the section permitting plaintiff to amend his complaint from the Order, the Court notes there was no objection made at the time of oral argument. Moreover, since the federal law claims are resolved, there is no other basis or prejudice to the individual named officers that were included in the amended complaint.

Turning to plaintiff's cross motion for monetary sanctions (Seq. 6),

“A court, in its discretion, may award to any party or attorney in any civil action or proceeding before the court ... costs in the form of reimbursement for actual expenses reasonably incurred and reasonable attorney's fees, resulting from frivolous conduct. The party seeking sanctions has the burden to demonstrate that its opponent's conduct was frivolous within the meaning of 22 NYCRR 130–1.1(c)” (*Contreras v Jimmy's Auto Top*, 2025 WL 2790384 [2d Dept 2025]).

“[C]onduct is frivolous if: (1) it is completely without merit in law and cannot be supported by a reasonable argument for an extension, modification or reversal of existing law; (2) it is undertaken primarily to delay or prolong the resolution of the litigation, or to harass or maliciously injure another; or (3) it asserts material factual statements that are false” (*MTGLQ Investors, L.P. v Wise*, 239 AD3d 735, 737 [2d Dept 2025]).

Contrary to plaintiff's contention, the record does not demonstrate defendant's counsel engaged in frivolous conduct (*id.*). “[D]efendant's conduct was not frivolous within the meaning of 22 NYCRR 130–1.1 and, in any event, did not rise to a level that warranted sanctions” (*DeSimone v Northport-East Northport Union Free School District*, 241 AD3d 872 [2d Dept 2025]).

Turning to the branch of the defendant’s motion to dismiss for state law claims (Seq. 3), the Court finds plaintiff failed to comply with statutory mandates under general municipal law. Therefore, the motion is granted in its entirety.

The parties’ remaining contentions, to the extent not expressly set forth herein, have been considered and are denied.

Accordingly, it is hereby

ORDERED that defendant’s motion (Seq. 5) is granted to the extent of modifying the April 16, 2025 order to dismiss plaintiff’s federal 42 U.S.C. § 1983 claims. The branch of the motion to remove the section permitting plaintiff to amend his complaint is denied; and it is further

ORDERED that plaintiff’s cross motion to impose sanctions is denied in its entirety (Motion Seq. 6) ; and it is further

ORDERED that the remaining branch (state law claims) of the defendant’s motion to dismiss (Motion Seq. 3) is granted.

This constitutes the Decision and Order of the Court.

ENTER

J. S. C.

FILED
JAN 12 2026
KINGS COUNTY CLERK'S OFFICE