

Siu Ying Mak Chin v Empire Resorts Inc.

2026 NY Slip Op 30411(U)

January 29, 2026

Supreme Court, New York County

Docket Number: Index No. 151192/2023

Judge: Arlene P. Bluth

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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. ARLENE P. BLUTH PART 14

Justice

-----X

SIU YING MAK CHIN,

Plaintiff,

- v -

EMPIRE RESORTS INC.,EPT CONCORD II,
LLC,MONTREIGN OPERATING COMPANY,
LLC,LPCIMINELLI, INC.,

Defendant.

-----X

EMPIRE RESORTS INC., MONTREIGN OPERATING
COMPANY, LLC

Plaintiff,

-against-

LPCIMINELLI, INC.

Defendant.

-----X

INDEX NO. 151192/2023
MOTION DATE N/A
MOTION SEQ. NO. 001

**DECISION + ORDER ON
MOTION**

Third-Party
Index No. 595987/2023

The following e-filed documents, listed by NYSCEF document number (Motion 001) 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 93, 94

were read on this motion to/for CHANGE VENUE.

Defendant LPCiminelli Inc.'s ("Moving Defendant") motion to change venue is denied.

Background

This action concerns an accident that occurred at Resorts World in the Catskills. Plaintiff contends that she was sitting at a table in the casino when a large portion of the ceiling collapsed on her, rendering her unconscious and causing severe injuries.

Moving Defendant seeks to transfer this matter to Sullivan County, where the accident happened and where many of the witnesses live and work. It contends that the first responders all

live and work in Sullivan County and should not be forced to travel several hours to New York City. Moving Defendant argues that the convenience of emergency responders should be paramount and requires the Court to move this case.

In opposition, plaintiff contends that she is now 82 years old and lives in New York City. She emphasizes that she has received extensive medical treatment in New York City and that discovery has already proceeded. Plaintiff points out that only two depositions of defendants are outstanding as well as an IME. She argues that the instant motion is untimely as it was made 16 months after Moving Defendant filed its answer whereas the relevant CPLR statute requires the motion to be made at the same time, or before, the answer was served.

In reply, Moving Defendant contends that it is not arguing that the initial designation of New York County was improper—rather, it insists that the convenience of the material witnesses requires a change in venue. It argues that this motion was made within a reasonable time after the start of the action and that it did not learn all of the facts necessary to support the motion until mid 2025. Moving Defendant contends that plaintiff testified she did not recall the incident, which made the testimony of first responders suddenly critical.

Discussion

The Court denies the motion. CPLR 511(a) provides that “Time for motion or demand. A demand under subdivision (b) for change of place of trial on the ground that the county designated for that purpose is not a proper county shall be served with the answer or before the answer is served. A motion for change of place of trial on any other ground shall be made within a reasonable time after commencement of the action.”

As Moving Defendant contends that the instant motion is based on convenience of the witnesses, the question for this Court is whether the motion was made within a reasonable time

after the commencement of the action. The Court, in its discretion, finds that the instant motion was not made within a reasonable time. Moving Defendant filed its answer on January 26, 2024 and this motion was filed on August 11, 2025. According to the last discovery order signed by the judge previously assigned to this case, all depositions were to be done by October 31, 2025 and IMEs were to be completed by then or waived (NYSCEF Doc. No. 88).¹

Therefore, there is no adequate basis to transfer this case to Sullivan County where discovery in this matter is nearly (and should be) complete (*Lalka v Massafra*, 167 AD2d 265, 266, 561 NYS2d 765 [1st Dept 1990] [denying motion to change venue where the motion was not made until almost two years after issue was joined and after discovery was completed]).

That there may be some witnesses who are in Sullivan County is not a basis, standing alone, to grant the motion given the delay in making this motion and the fact that plaintiff is 82 years old and lives in New York County. She was entitled to pick the venue in the first instance and no party disputes that venue was proper given her residence. And Moving Defendant's assertion that it just found out about the necessity of these witnesses is not persuasive. Plaintiff's bill of particulars from May 2023 contends that she was airlifted by helicopter to Westchester Medical Center (NYSCEF Doc. No. 101). Obviously, that suggests that one might want to depose first responders. To claim that a party only suddenly realized it should talk to first responders now, years after this case was commenced, is not an adequate to change venue. Nothing prevents the parties consenting to taking the depositions of local first responders in Sullivan County if not already done.

¹ Curiously, the parties subsequently uploaded a stipulation (that was not signed by the prior judge) that set deadlines for the IMEs in 2026.

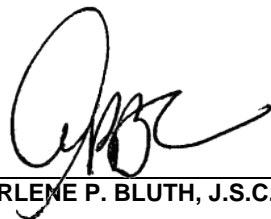
Of course, Sullivan County is not so far. It wasn't too far for plaintiff, an elderly woman, to go gambling. It won't be too far for witnesses to travel to a trial to give their account of what they saw and did that day when a ceiling purportedly fell on plaintiff.

Accordingly, it is hereby

ORDERED that defendant LPCiminelli Inc.'s motion to change venue is denied.

The Court observes that the previous note of issue date from the prior judge was January 30, 2026. Based on that order and the one proposed by the parties (which was never signed), the Court sets a note of issue date of February 26, 2026.

1/29/2026
DATE


ARLENE P. BLUTH, J.S.C.

CHECK ONE:

CASE DISPOSED
GRANTED DENIED
SETTLE ORDER
INCLUDES TRANSFER/REASSIGN

NON-FINAL DISPOSITION
GRANTED IN PART OTHER
SUBMIT ORDER
FIDUCIARY APPOINTMENT REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: