Bryant v Metropolitan Tr. Auth.

2026 NY Slip Op 30454(U)

February 3, 2026

Supreme Court, Kings County

Docket Number: Index No. 507826/2023

Judge: Carolyn E. Wade

At IAS Motion Part 84 of the Supreme Court of the State of New York held in and for the County of Kings at the Courthouse located at 360 Adams Street, Brooklyn, New York, the 3rd day of February 2026.

PRESENT: Hon. CAROLYN E. WADE, J.S.C

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

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LINDA BRYANT, as Proposed Administrator of the Estate of MARCUS BRYANT, and MARCUS BRYANT, Deceased, Individually,

Plaintiff,

-against-

METROPOLITAN TRANSIT AUTHORITY,

Defendant.

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Index No.: 507826/2023

ORDER

Mot. Seq. No.: 3 and 4

Defendant, **METROPOLITAN TRANSPORTATION AUTHORITY ("MTA")**, by its counsel, KARLA R. ALSTON, ESQ., moves (Mot. Seq. No. 3) for an Order, pursuant to CPLR §§ 3211(a)(5) and (a)(7), dismissing the action against Defendant MTA.

Plaintiff, **LINDA BRYANT, as Proposed Administrator of the Estate of MARCUS BRYANT, and MARCUS BRYANT, Deceased, Individually ("Plaintiff")**, by its counsel, DAVID T. SIROTKIN, ESQ., cross-moved (Mot. Seq. No. 4) for an Order, pursuant to CPLR §§ 3025(b) and (c), for leave to amend the Complaint.

Upon a reading of the papers submitted and following oral argument, on December 17, 2025, the Motions are decided as follows:

Pursuant to CPLR §§ 3211(a)(5) and (a)(7), Defendant MTA moved for dismissal, on the grounds that Plaintiff failed to state a cause of action against Defendant MTA, as Defendant MTA is an improper party to this action.

The MTA is a public benefit corporation, formed and existing pursuant to Public Authorities Law § 1263, et seq. Each subsidiary of the MTA is responsible for the maintenance and repair of its own facilities and property. It is well settled that the functions of the MTA, with respect to public transportation, are "limited to financing and planning and do not include the operation, maintenance, and control of any facility." *Cusick v. Lutheran Med. Ctr.*, 105 A.D.2d 681 (2nd Dept. 1984); *Soto v. New York City Tr. Auth*, 19 A.D.3d 579 (2nd Dept. 2005); *Lopez v. Metropolitan Transp. Auth*, 267 A.D.2d 359 (2nd Dept. 1999).

Defendant MTA is a distinct legal entity from the NEW YORK CITY TRANSIT AUTHORITY ("NYCTA"). For purposes of litigation, the MTA is not vicariously liable for the torts of the NYCTA. See Public Authorities Law § 1266(5); *Rampersaud v. MTA*, 73 A.D.3d (2nd Dept. 2010). Appellate courts have consistently held that the MTA is an improper party in an action involving the NYCTA or a subsidiary of the MTA, such as the LIRR, where the MTA does not own, operate, or control the subject premises or the instrumentality involved in the alleged injury to a Plaintiff in an action. *Brunson v. City of New York*, 150 A.D.3d 1189 (2nd Dept 2017); *Fridman v. NYCTA*, 131 A.D.3d 1202 (2nd Dept. 2015); *Emerick v. MTA*, 272 A.D.2d 150, (2nd Dept. 2000). Accordingly, the MTA is not vicariously liable for the torts of its subsidiaries. The MTA and its subsidiaries must be sued separately and are not responsible for each other's torts. *Mayayev v. MTA Bus*, 74 A.D.3d 910 (2nd Dept. 2010); Public Authorities Law §1266(5).

Further, Defendant MTA moves for dismissal, pursuant to CPLR §§3211(a)(5) and (7), on the grounds that Plaintiff may not move to Amend her Notice of Claim to implead the proper party, as the Statute of Limitations has expired.

An action against a public corporation to recover damages for conscious pain and suffering must be commenced within one (1) year and 90 days after the accrual of the cause of action. See McKinney's Uncons Laws of NY § 7401 (2); General Municipal Law § 50-I (1)(c); CPLR § 217(a); *Cherise v. Braff*, 50 A.D.3d 724 (2nd Dept. 2008). As such, the Statute of Limitations, for which Plaintiff would have been able to file a cause of action for damages for conscious pain and suffering, expired on September 14, 2023, which is one (1) year and 90 days from the date of decedent's death of June 16, 2022.

An action to recover damages for wrongful death must be commenced within two (2) years after the death. See General Municipal Law § 50-I (1)(c); Public Authorities Law § 2981; EPTL 5-4.1 (1); *Collins v. City of New York*, 55 N.Y.2d 646 (1981). As such, the Statute of Limitations, for which Plaintiff would have been able to file a cause of action for wrongful death, expired on June 16, 2024, which is two (2) years from the date of decedent's death of June 16, 2022. Furthermore, the Court may not extend the time within which the Plaintiff may file a timely wrongful death action. *Pierson v. City of New York*, 56 N.Y.2d 950 (1952) ("To permit a court to grant an extension after the Statute of Limitations has run would, in practical effect, allow the court to grant an extension which exceeds the Statute of Limitations, thus rendering meaningless that portion of section 50-e which expressly prohibits the court from doing so."); *Masias v. City of New York*, 201 A.D.2d 541 (2nd Dept. 1994).

Upon the expiration of the Statute of Limitations, a plaintiff may not invoke CPLR § 3025(c) to proceed against an entirely new Defendant, who was not served with a Notice of Claim within the time specified, pursuant to General Municipal Law § 50(e). Here, Plaintiff attempts to argue that Defendant NYCTA was served a timely Notice of Claim, however, such argument is unavailing. See NYSCEF Doc. No. 39 ¶ 8. Plaintiff fails to acknowledge that this is not a case where a party was merely misnamed. Rather, this is a case where the Plaintiff seeks to add or substitute a party Defendant. *Smith v. Garo Enters., Inc.*, 60 A.D.3d 751 (2nd Dept. 2009). Notably, the Respondent listed on the Notice of Claim that Plaintiff purportedly served on the NYCTA is the "METROPOLITAN TRANSIT

AUTHORITY," **not** the NYCTA. See NYSCEF Doc. No. 43. Additionally, the accompanying Affidavit of Service indicates that the purported service of the Notice of Claim was effectuated upon "LINDA JAHNS, the RESPONDENT," **not** the NYCTA. *Id.* at pg. 5.

The proper party for Plaintiff to have sued regarding her son's accident, of June 15, 2022, was the NYCTA, an affiliate of the MTA. Public Authorities Law § 1204(1) empowers the NYCTA to sue and to be sued. However, there cannot be an action for negligence, that can be maintained against the NYCTA, without the filing of a Notice of Claim that is served upon it within the time specified and in compliance with General Municipal Law § 50-e (see Public Authorities Law §1212 (4)). Service of a timely Notice of Claim against the NYCTA is a condition precedent to the commencement of an action against the NYCTA.

Plaintiff cross-moves, pursuant to CPLR § 3025 (b) and (c), for Leave to Amend her Complaint to add NEW YORK CITY TRANSIT AUTHORITY ("NYCTA") as a Defendant. Plaintiff argues, *inter alia*, that counsel for Defendant MTA, Krez & Flores, LLP, should be equitably estopped from asserting a Statute of Limitations defense, on behalf of NYCTA, because the firm engaged in conduct that misled Plaintiff to justifiably believe that she sued the correct party, which lulled her into sleeping on her rights to her detriment. However, such argument is also unavailing.

The doctrine of equitable estoppel applies only "where a governmental subdivision acts or comports itself wrongfully or negligently, inducing reliance by a party who is entitled to rely, and who changes his position to his detriment or prejudice." *Luka v. New York City Transit Auth.*, 100 A.D.2d 323 (1st Dept. 1984). It is, however, "a doctrine of limited application and does not diminish the vitality of the rule that the doctrine of estoppel is not applicable to agencies of the State acting in their governmental capacity." *Id;* See also *Hamptons Hosp. & Med. Ctr., Inc. v. Moore*, 52 N.Y.2d 88 (1981). Further, "it is to be invoked sparingly and only under exceptional circumstances." *Luka,* 100 A.D.2d 323 supra.

Analogous to *Luka,* "Plaintiff's endeavor to allege estoppel is much too thin a reed to establish that [Defendant] MTA acted wrongfully or negligently, thus inducing reliance by a person entitled to rely." *Id.* Rather, counsel for Defendant MTA, Krez & Flores, LLP, "went beyond what normally would be expected in an adversary proceeding." *Id.*

Most notably, Defendant MTA "served its answer denying ownership and operation of the bus, which should have alerted Plaintiff's counsel that the MTA may not have been the proper party to sue." *Zaiman v. Metro. Tr. Auth.*, 186 A.D.2d 555 (2nd Dept 1992); See also NYSCEF Doc. No. 5, ¶ 6 (Defendant MTA's Answer).

Herein, the record is devoid of any evidence that Defendant MTA acted wrongfully or negligently. Further, there is no evidence to suggest that Defendant MTA's conduct induced reliance such that Plaintiff was led to believe that Defendant MTA and NYCTA were aligned in interest and interchangeable for the purposes of this action. As such, "while the dismissal of what may be a meritorious claim may be a harsh result, it is a conclusion foreordained by statute." *Luka*, 100 A.D.2d 323 (1984).

Accordingly, it is **ORDERED** that Defendant's Motion to Dismiss (Mot. Seq. No. 3) is **GRANTED** and Plaintiff's Cross-Motion to Amend the Complaint (Mot. Seq. No. 4) is **DENIED**.

This constitutes the Decision and Order of the Court.

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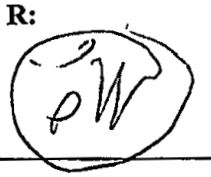

Hon. Carolyn E. Wade, J.S.C.