

Le Mounier v Aramsco, Inc.
2026 NY Slip Op 30493(U)
February 9, 2026
Supreme Court, Kings County
Docket Number: Index No. 515050/2023
Judge: Lisa Lewis
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At City Part 20 of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse, at 360 Adams Street, Brooklyn, New York, on the 9th day of February, 2026.

P R E S E N T:

HON. LISA LEWIS,

J.S.C.

-----X
MAXIME LE MOUNIER, INDIVIDUALLY, AND AS ADMINISTRATOR OF THE ESTATE OF SARAH SCHICK, A/K/A SARAH SCHICK LE MOUNIER, DECEASED,

Plaintiffs,

-against-

ARAMSCO, INC., ANDREW ANDRE COLE, RYDER TRUCK RENTAL, INC., AND THE CITY OF NEW YORK,

Defendants.
-----X

DECISION & ORDER

Cal No. 17

Index No. 515050/2023

The following papers read herein:

NYSCEF Doc No.:

MS 5

123-131; 135-145; 148-150; 151

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

In this action to recover damages for personal injuries and wrongful death, plaintiffs Maxime Le Mounier, individually and as the administrator of the estate of his deceased wife Sarah Schick, also known as Sarah Schick Le Mounier (“Sarah” and collectively with her surviving husband, “plaintiffs”), move for leave, pursuant to CPLR § 3025 (b), to file and serve their Proposed Amended Complaint, dated August 19, 2025 (“PAC”) (NYSCEF Doc No. 129). The PAC asserts an additional (eighth) cause of action against defendant Aramsco, Inc. (“Aramsco”) for the latter’s alleged gross negligence in the hiring, training, supervision, and retention of codefendant Andrew Andre Cole (“Cole”) (PAC, ¶¶ 80-101)

and further demands punitive damages in connection with that cause of action (PAC, ¶ 101; “Wherefore” clause).

On Tuesday morning, January 10, 2023, Sarah, age 37, was riding a Citibike on Ninth Street at (or near) its intersection with Second Avenue in Brooklyn, New York, when she was run over and killed by the box truck driven by Cole, age 39, in the course of his employment with Aramsco (the “accident”).¹ After some discovery was exchanged but before defendants’ pretrial depositions were held, plaintiffs served the instant motion for leave to amend.

According to plaintiffs’ submissions, Cole received from Aramsco a Corrective Action Notice on August 18, 2022 (“supervisor’s notice”) (NYSCEF Doc No. 144). The supervisor’s notice was issued (and was placed in Cole’s personnel file after his supervisor’s meeting with him) one day after his third successive collision in two months: one on June 3, 2022, another on August 8, 2022, and yet another (nine days later) on August 17, 2022 (NYSCEF Doc No. 131). The supervisor’s notice warned Cole that his “operation of [the] company [truck]” was “unsatisfactory,” and that he “[n]eed[ed] to slow down and account for [his] surroundings when [he was] driving around cars [*i.e.*, while he was passing cars and others on the road with his truck] and [when he was] makin[g] turns [with his truck].” The expressed intent of the supervisor’s notice, as was highlighted in its bold-face type, was “to define for [Cole] the seriousness of the situation so that [he] may

¹ Aramsco’s Verified Answer to Second Amended Complaint, dated December 2, 2024, ¶¶ 16-17 (admitting that at the time of the accident, Cole was “was employed by and [was] acting within the scope of his employment with” Aramsco) (NYSCEF Doc No. 100).

take *immediate corrective action*” (italics added; bold-face type omitted). Despite such warning, plaintiff alleges, among other allegations, that Cole recklessly attempted to pass Sarah at the subject intersection five months later on January 10, 2023. NYSCEF Doc No. 128, ¶ 33.

Since 2008, the rules governing leave to amend in the Second Judicial Department have become more relaxed than their predecessors. “No evidentiary showing of merit is required under CPLR [§] 3025 (b).” *Lucido v Mancuso*, 49 AD3d 220, 229 (2d Dept 2008), *appeals withdrawn* 12 NY3d 804 and 813 (2009). The presumption is that leave to amend should be granted routinely unless “the proposed amendment is ‘palpably insufficient’ to state a cause of action . . . or is patently devoid of merit.” *Id.* “If the opposing party wishes to test the merits of the proposed added cause of action. . . , that party may later move for summary judgment upon a proper showing (*see* CPLR [§] 3212).” *Id.*

Here, the proposed cause of action for gross negligence and the proposed demand for punitive damages are neither “palpably insufficient” nor “patently devoid of merit.” Generally, “where an employee is acting within the scope of his or her employment, the employer is liable for the employee’s negligence under a theory of respondeat superior[,] and no claim may proceed against the employer for negligent hiring, retention, supervision or training.” *Quiroz v Zottola*, 96 AD3d 1035 (2d Dept 2012); *Talavera v Arbit*, 18 AD3d 738, 738 (2d Dept 2005). “[A]n exception exists to this general principle where, as here, the . . . plaintiff seeks punitive damages from the employer based on alleged gross negligence in the hiring or retention of the employee.” *Id.* at 738-739; *see also Gipe v DBT Xpress, LLC*, 150 AD3d 1208, 1209-1210 (2d Dept 2017). A demand for punitive damages

requires a showing of “reckless disregard for the rights of others, bordering on intentional wrongdoing.” *Jones v LeFrance Leasing Ltd. Partnership*, 127 AD3d 819, 822 (2d Dept 2015) (internal quotation marks omitted).

Plaintiffs’ PAC alleges that Aramsco acted recklessly/gross-negligently in hiring Cole without following federal hiring regulations for truck drivers, as well as recklessly/gross-negligently hiring Cole despite a lack of inquiry into, and/or demonstration of Cole’s qualifications to operate a truck. PAC at ¶¶ 80-101. The PAC also alleges that Aramsco permitted Cole to operate trucks before officially employing him. *Id.* at ¶ 83. Overall, plaintiff seeks to allege that Aramsco’s hiring of Cole was in total disregard for the safety of the public. *Id.* at ¶ 92.

Under the totality of the circumstances and considering that no pretrial depositions of Aramsco and Cole have been held in this action to date, it is appropriate, in the court’s discretion, to grant plaintiffs leave to amend their complaint to assert their proposed eighth cause of action against Aramsco for its alleged gross negligence in the hiring, training, supervision, and retention of Cole. *See Rubin v Poly Prep Country Day School*, 227 AD3d 741, 743 (2d Dept 2024); *Lee v Allen*, 165 AD3d 907, 907-908 (2d Dept 2018); *Edwards v 1234 Pac. Mgt., LLC*, 139 AD3d 658, 658-659 (2d Dept 2016); *Favia v Harley-Davidson Motor Co., Inc.*, 119 AD3d 836, 836-837 (2d Dept 2014); *Pellegrini v Richmond County Ambulance Serv., Inc.*, 48 AD3d 436, 437 (2d Dept 2008).

One caveat is appropriate with regard to plaintiffs’ proposed demand for punitive damages as was drafted and submitted to the court. As drafted in the PAC, plaintiffs’

demand for punitive damages broadly encompasses all causes of action against Aramsco, whereas it should have been confined to the proposed eighth cause of action only.

Accordingly, plaintiffs' motion for leave to amend is granted, with the proviso that their counsel shall redraft the "Wherefore" clause of the proposed Third Amended Complaint to clarify that plaintiffs' demand for punitive damages against Aramsco is solely predicated on their proposed eighth cause of action against it, and, as so redrafted, plaintiffs' counsel is directed to serve and file the Third Amended Verified Complaint.

Plaintiffs-movants are directed to electronically serve a copy of this decision and order with notice of entry on defendants' respective counsel and to electronically file an affidavit of service thereof with the Kings County Clerk.

Each remaining defendant (with the exception of since-dismissed defendant Ryder Truck Rental, Inc.²) is directed to answer the Third Amended Verified Complaint (as redrafted as directed herein) within twenty days after electronic service and filing thereof.

Part 20 Clerk is directed to change the disposition of plaintiffs' MS 5 from "Decided: 11/19/2025 Withdrawn" to "Granted" with the applicable disposition date.

The foregoing constitutes the decision and order of the court.

ENTER,



HON. LISA LEWIS
J. S. C.

Hon. Lisa Lewis

² Former defendant Ryder Truck Rental, Inc. was dismissed from this action by Decision/Order, dated May 3, 2024 (Frias-Colón, J.) (NYSCEF Doc No. 62).