

Venor-Francois v New York City Tr. Auth.

2026 NY Slip Op 31530(U)

April 9, 2026

Supreme Court, Kings County

Docket Number: Index No. 516650/2019

Judge: Lisa Lewis

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This opinion is uncorrected and not selected for official publication.

At an IAS Term, Part 25 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 April, 2026.

P R E S E N T:

HON. LISA LEWIS,

Justice.

-----X
MARIE L. VENOR-FRANCOIS,

Plaintiff,

-against-

NEW YORK CITY TRANSIT AUTHORITY,
ROMEO G. WISDOM,
METROPOLITAN TRANSPORTATION AUTHORITY,
CESAR I. JIMENEZ, and
RICHMOND COUNTY AMBULANCE SERVICE INC.,

Defendants.
-----X

DECISION AND ORDER

Index No. 516650/2019

Mot. Seq. No. 5

The following e-filed papers submitted and considered herein:

NYSCEF Doc Nos.:

Notice of Motion, Affirmations, and Exhibits Annexed _____
Affirmation in Opposition _____
Reply Affirmation _____

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84

Upon the foregoing papers in this consolidated action to recover damages for personal injuries, plaintiff Marie L. Venor-Francois (plaintiff) moved for an order, in effect, pursuant to CPLR §§ 1015 and 1021: (1) appointing Gartner + Bloom, PC (G+B), which acted as litigation counsel to defendant Cesar I. Jimenez (Jimenez) before his death on December 28, 2021,¹ as a temporary administrator for his estate for the purpose of defending this action on his behalf; (2) substituting G+B as a temporary administrator of Jimenez’s estate as a party defendant; and (3) lifting the litigation stay imposed by Jimenez’s death. G+B opposed plaintiff’s motion. Plaintiff, in her reply papers,

¹ G+B also represents co-defendant Richmond County Ambulance Service Inc. in this action.

“request[ed] [in the alternative that] the Court appoint the public administrator as the representative of [Jimenez’s] estate” (Plaintiff’s Reply Affirmation, dated November 18, 2025, ¶ 6, at NYSCEF Doc No. 84).

RELEVANT BACKGROUND

Plaintiff, seeking to recover damages for personal injuries she allegedly sustained in a motor vehicle accident, commenced this action against (among others) defendant Jimenez who was driving an ambulance, in which plaintiff was a passenger, at the time of the accident.² Jimenez died from unrelated causes in the course of this action, and no administrator or executor of his estate has been appointed to date, despite both plaintiff’s counsel and G+B’s repeated attempts to contact his surviving spouse who (based on the information contained in his death transcript) resides in Brooklyn, New York. By order, dated July 23, 2025, this Court denied, without prejudice, plaintiff’s prior motion for substitution on the condition that plaintiff’s counsel contact Jimenez’s next of kin within the ensuing 30 days (NYSCEF Doc No. 75). Thereafter, mail sent by plaintiff’s counsel to Jimenez’s surviving spouse (once by regular mail and again by certified mail) went unanswered (NYSCEF Doc No. 82). Thereupon, plaintiff renewed her prior motion by way of her instant motion. Importantly, plaintiff’s instant motion asserts that “[she] will not . .

² According to her post-accident history of present illness, plaintiff was a “56-year-old female CNA [certified nursing assistant or certified nurse aide] who was working light duty [when] she was involved in an accident [on October 4, 2018] while escorting a [client] to dialysis in the ambulance. . . . The ambulance collided with [an] MTA bus [in Brooklyn, New York]. She stated [to the medical examiner] that she had pain in the area immediately[,] but tried to bear it. Two days [after the accident], she went to the emergency room, where they did an exam and she had x-ray of the right shoulder[,] and they gave her ibuprofen. She stopped work[ing] the next day, per patient” (Central Medical Services of Westrock, report of physical examination on December 14, 2018, at NYSCEF Doc No. 59).

. agree to limit her right to interest accrued on the sum of damages awarded as a result of the Summary Judgment Motion[] that was granted on December 11, 2023” (Plaintiff’s Counsel’s Affirmation in Support, dated October 14, 2025, ¶ 9 at NYSCEF Doc No. 78). Contrary to plaintiff’s representation in her moving papers, however, the aforementioned summary judgment motion was “granted as to [her] own culpable conduct . . . [but was] denied as to the culpable conduct of [d]efendants” (Decision/Order, dated December 11, 2023, page 1, at NYSCEF Doc No. 46) (unnecessary capitalization omitted). In particular, the Court (Frias-Colón, J.) held that “[p]laintiff failed to meet her burden of establishing [d]efendants’ liability,” and that “[t]here remain triable issues of fact as to how the [underlying] accident happened” (*id.*).

LAW AND APPLICATION

In appropriate circumstances, the Supreme Court is empowered to appoint a temporary administrator, in order to “avoid delay and prejudice in a pending action” (*Dieye v Royal Blue Servs., Inc.*, 104 AD3d 724, 726 [2d Dept 2013]). “Such a determination is addressed to the broad discretion of the court” (*Franco v Estate of Ketterer*, 213 AD3d 912, 913 [2d Dept 2023]).

Under the circumstances of this case, the appointment of G+B (or one of its attorneys) as a temporary administrator of Jimenez’s estate is warranted. Jimenez has been deceased for over four years, attempts to reach his next of kin have been unsuccessful, and plaintiff has agreed to cap recovery at the maximum insurance coverage limits of Jimenez and his employer, the defendant Richmond County Ambulance Service, Inc. “[T]he

plaintiff's agreement to limit the amount of recovery sought to the limits of any insurance coverage available to [defendant], his estate will not be adversely affected by the continuation of this action. Under these circumstances, there was no special need for the plaintiff to proceed in Surrogate's Court, and the Supreme Court properly exercised its authority to appoint a temporary administrator to avoid delay (*see Harding v Noble Taxi Corp.*, 155 AD2d at 266).” [Bracketry added]. *Dieye*, 104 AD3d at 726.

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

Accordingly, it is

ORDERED that plaintiff’s motion is *granted to the extent* that Gartner + Bloom, PC, attorneys for defendants Cesar I. Jimenez and Richmond County Ambulance Services, Inc., located at 801 2nd Ave, Fl 11, New York, NY 10017, are hereby appointed as Temporary Administrator of the Estate of Cesar I. Jimenez in this action; and it is further

ORDERED that to reflect the substitution of Gartner + Bloom, PC in place of decedent Cesar I. Jimenez, the caption is amended to read in its entirety, as follows:

-----X
MARIE L. VENOR-FRANCOIS,

Plaintiff,

-against-

NEW YORK CITY TRANSIT AUTHORITY,
ROMEO G. WISDOM,
METROPOLITAN TRANSPORTATION AUTHORITY,
GARTNER + BLOOM, PC, as Temporary Administrator
of CESAR I. JIMENEZ, and
RICHMOND COUNTY AMBULANCE SERVICE INC.,

Defendants.
-----X

; and it is further

ORDERED that the recovery against defendant Jimenez, if any, is limited to his insurance policy limits plus interest calculated from the date liability is imposed in accordance with such policy and 11 NYCRR 60-1.1 (see *Dingle v Prudential Prop. and Cas. Ins. Co.*, 85 NY2d 657, 662 [1995] holding the insurance company's obligation to pay prejudgment interest is calculated from the portion of liability that makes up the policy limit as opposed to prejudgment interest calculated from the entire judgment since the relevant inquiry is *who* has retained or benefitted from the money belonging to the plaintiff during the prejudgment period.); and it is further

ORDERED that the statutory stay occasioned by Jimenez's death is lifted upon the entry of this decision and order; and it is further

ORDERED that plaintiff's counsel is directed to electronically serve a copy of this decision and order with notice of entry on defendants' respective counsel, as well as by first-class mail, return-receipt requested, on Gartner + Bloom, PC, attorneys for defendants Cesar I. Jimenez and Richmond County Ambulance Services, Inc., located at 801 2nd Ave, Fl 11, New York, NY 10017 (*with the mailing G + B to include a certified copy of Cesar I. Jimenez's death transcript*), and on Soralda Jimenez, at 643 Bay Ridge Avenue, Apartment 1-F, Brooklyn, New York 11220; and to electronically file an affidavit of service thereof with the Kings County Clerk.

This constitutes the decision and order of the court.

ENTER,

A handwritten signature in black ink, appearing to read "Lisa Lewis", written over a horizontal line.

Hon. Lisa Lewis
Justice, Supreme Court

Hon. Lisa Lewis