

Stamps v City of New York
2026 NY Slip Op 31977(U)
May 8, 2026
Supreme Court, New York County
Docket Number: Index No. 401697/2012
Judge: Richard Tsai
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**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. RICHARD TSAI PART 21

Justice

-----X

SAMUEL STAMPS and RAMON PENA,

Plaintiffs,

- v -

CITY OF NEW YORK, NYC TRANSIT AUTHORITY,
METROPOLITAN TRANSIT AUTHORITY, NYC
DEPARTMENT OF TRANSPORTATION, JOHN DOE

Defendant.

-----X

INDEX NO. 401697/2012

MOTION DATE 01/09/2026

MOTION SEQ. NO. 004

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document numbers (Motion 004) 38, 52-58 were read on this motion to/for APPOINT TEMPORARY ADMINISTRATOR.

Upon the foregoing documents, it is **ORDERED** that plaintiffs' motion for the appointment of a Public Administrator as temporary administrator of the Estate of Samuel Stamps, deceased, is **GRANTED** without opposition; and it is further

ORDERED that the Public Administrator of Bronx County is hereby appointed temporary administrator of the Estate of Samuel Stamps, deceased; and it is further

ORDERED that plaintiffs' counsel is directed to serve via personal service a copy of this decision and order with notice of entry upon the Public Administrator of Bronx County within 30 days; and it is further

ORDERED that the Public Administrator of Bronx County in both their individual and fiduciary capacity, as well as any attorney who represents them in either capacity, shall not permit the collection or receipt of the proceeds from any action instituted or settled without the further order of the Surrogate's Court, Bronx County, or of a court of competent jurisdiction; and it is further

ORDERED that the Public Administrator of Bronx County be substituted in the above-entitled action in the place and stead of Samuel Stamps, without prejudice to any proceedings heretofore had herein; and it is further

ORDERED that all papers, pleadings, and proceedings in the above-entitled action be amended by substituting the name of the Public Administrator of Bronx County in the place and stead of Samuel Stamps, without prejudice to any proceedings heretofore had herein; and it is further

ORDERED that the caption shall read as follows:

-----X
 THE PUBLIC ADMINISTRATOR OF BRONX
 COUNTY, as Temporary Administrator of the
 Estate of Samuel Stamps, deceased, and
 RAMON PENA,

Plaintiffs,

- v -

THE CITY OF NEW YORK, NEW YORK CITY
 TRANSIT AUTHORITY, METROPOLITAN
 TRANSIT AUTHORITY, NEW YORK CITY
 DEPARTMENT OF TRANSPORTATION, and
 JOHN DOE,

Defendants.

-----X

and it is further

ORDERED that counsel for plaintiffs shall serve a copy of this order with notice of entry upon the Clerk of the Court and the Clerk of the General Clerk's Office, who are directed to amend their records to reflect such change in the caption herein; and it is further

ORDERED that service of this order upon the Clerk of the Court and the Clerk of the General Clerk's Office shall be made in accordance with the procedures set forth in Section J of the *Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases* (accessible at the "E-Filing" page on the court's website at <https://www.nycourts.gov/LegacyPDFS/courts/1jd/supctmanh/Efil-protocol.pdf>).¹

¹ Pursuant to Section J, service upon the Clerk of the General Clerk's Office is done by posting to NYSCEF a copy of the order, with notice of entry (if required by the court), "using the **NYSCEF document type 'Service on Supreme Court Clerk (Genl. Clerk) w/Copy of Order'**" and the filer must provide "as additional information (in the 'Additional Document Information' field) a brief description of the type of order being submitted (e.g., 'Order of Consolidation' . . .) (emphasis added).

Plaintiff's counsel must select the correct document type to ensure that the order will be delivered electronically to the General Clerk's To-Do list.

Likewise, pursuant Section J, in order for the County Clerk to effectuate this order, plaintiff's counsel must serve a copy of this order on the County Clerk "by filing with NYSCEF a completed **Notice to the County Clerk - CPLR § 8019 (c) (NYSCEF Form EF-22, available on the NYSCEF site)**" (*id.*)

According to the complaint, on July 16, 2011, plaintiffs Samuel Stamps and Ramon Pena were passengers on a BX3 bus, which “came into contact with metal grates and/or an obstructed deteriorated roadway area on the 181st Street bridge (Washington Heights Bridge)” in the Bronx (see Plaintiffs’ Exhibit A in support of motion, complaint ¶¶ 40-42 [NYSCEF Doc. No. 55]), and plaintiffs were injured as a result of the contact (complaint ¶¶ 45-46).

The case is now on the trial calendar. Plaintiffs filed the note of issue on June 29, 2022 (see NYSCEF Doc. No. 38). The matter is scheduled for a settlement conference in Part 40 on November 12, 2026.

Plaintiffs now move for the appointment of a public administrator as administrator of the Estate of Samuel Stamps. According to a death certificate, Stamps died on January 27, 2024, at his residence in the Bronx, at the age of 73 (see Plaintiffs’ Exhibit B in support of motion [NYSCEF Doc. No. 56]). No surviving spouse is listed on the death certificate (*id.*). The motion is unopposed.

By an interim order dated February 13, 2026, this court directed plaintiffs’ counsel to serve a copy of the moving papers upon the Public Administrator of Bronx County and granted the Public Administrator an opportunity to submit opposition papers (see NYSCEF doc. No. 57). According to an affirmation of service, the motion papers were purportedly served upon the Public Administrator by mail on February 17, 2026 (see NYSCEF Doc. No. 58). The Public Administrator did not submit any opposition papers.

“The Supreme Court is a court of general jurisdiction with the power to appoint a temporary administrator, and may do so to avoid delay and prejudice in a pending action” (*Dieye v Royal Blue Servs., Inc.*, 104 AD3d 724, 726 [2d Dept 2013]; see also *Harding v Noble Taxi Corp.*, 155 AD2d 265, 266 [1st Dept 1999]). “The determination of whether to exercise its authority to appoint a temporary administrator is committed to the sound discretion of the Supreme Court, and will not be disturbed by this Court so long as the determination does not constitute an improvident exercise of discretion” (*Lambert v Estren*, 126 AD3d 942, 943 [2d Dept 2015]).

Given that this case is on the trial calendar, the court hereby appoints the Public Administrator of Bronx County as a limited, temporary administrator of Stamps’s estate to avoid further delay in this action, which has been pending for 14 years (see *U.S. Bank N.A. v Rizzo*, 245 AD3d 760, 109 [2d Dept 2026]). As the death certificate indicates that the domicile of Samuel Stamps was in the Bronx at the time of his death, the proper venue for any proceedings relating to his estate is Bronx County (see SCPA 205 [1]). The Public Administrator to be appointed must therefore be the Public Administrator of Bronx County, even though this action is pending in New York County.

As consistent with the issuance of letters of temporary administration, the appointment carries the limitation that the Public Administrator of Bronx County in both their individual and fiduciary capacity, as well as any attorney who represents them in

either capacity, shall not permit the collection or receipt of the proceeds from any action instituted or settled without the further order of the Surrogate's Court, Bronx County, or a court of competent jurisdiction.

ENTER:



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5/8/2026

DATE

RICHARD TSAI, J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE