

Zaidan v City of New York

2017 NY Slip Op 33118(U)

February 7, 2017

Supreme Court, Queens County

Docket Number: 11157/13

Judge: Howard G. Lane

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This opinion is uncorrected and not selected for official publication.

Short Form Order

NEW YORK SUPREME COURT - QUEENS COUNTY

Present: HONORABLE HOWARD G. LANE
Justice

IAS PART 6

UTJOK ZAIDAN,

Plaintiff,

-against-

ACTION NO. 1
Index No. 11157/13

Motion
Date January 18, 2017

THE CITY OF NEW YORK, THE NEW YORK
CITY POLICE DEPARTMENT, POLICE
OFFICERS JOHN and JANE DOES 1-10,
MOHAMMAD SYAMSI ALI and SURATNO
IGIRISA,

Motion Cal. No. 181
Motion Seq. No. 5

Defendants.

UTJOK ZAIDAN,

Plaintiff,

-against-

ACTION NO. 2
Index No. 2139/16

M. SYAMSI ALI, THE CITY OF NEW YORK,
THE NEW YORK CITY POLICE DEPARTMENT
and JOHN and JANE DOES,

Defendants.

UTJOK ZAIDAN,

Plaintiff,

-against-

ACTION NO. 3
Index No. 7418/16

M. SYAMASI ALI, THE CITY OF NEW YORK,
THE NEW YORK CITY POLICE DEPARTMENT,
POLICE OFFICERS CLARENCE COLEMAN and
JOHN and JANE DOES,

Defendants.



	<u>Papers Numbered</u>
Notice of Motion-Affidavits-Exhibits...	1-4
Opposition.....	5-9
Reply.....	10-12

Upon the foregoing papers it is ordered that the branch of the motion by defendant Muhammad S. Ali ("Ali") seeking consolidation of Action No. 1 under Index No. 11157/2013 and Action No. 2 under Index No. 2139/2016 and Action No. 3 under Index No. 7418/2016 is granted solely to the extent that Action No. 1, Action No. 2, and Action No. 3 shall all have joint discovery and shall be jointly tried. Moving defendant has demonstrated that the matters involve common questions of law and fact, in that they involve common parties and arise out of the same series of incidents. Separate Index Numbers, Requests for Judicial Intervention (RJI) and Notes of Issue shall be filed for each action.

The titles and index numbers of the actions to be jointly tried are:

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

UJTOK A ZAIDAN,

Plaintiff,

ACTION NO. 1
Index No. 11157/13

-against-

THE CITY OF NEW YORK, THE NEW YORK
CITY POLICE DEPARTMENT and POLICE
OFFICERS JOHN and JANE DOES 1-10,
MOHAMMAD SYAMSI ALI and SURATNO
IGIRISA,

Defendants.

UJTOK AMRY ZAIDAN,

Plaintiff,

ACTION NO. 2
Index No. 2139/16

-against-

M. SYAMSI ALI, THE CITY OF NEW YORK,
THE NEW YORK CITY POLICE DEPARTMENT
and JOHN and JANE DOES,

Defendants.

UJTOK ZAIDAN,

ACTION NO. 3

Index No. 7418/16

Plaintiff,

-against-

M. SYAMSI ALI, THE CITY OF NEW YORK,
THE NEW YORK CITY POLICE DEPARTMENT
and POLICE OFFICERS CLARENCE COLEMAN
and JOHN AND JANE DOES,

Defendants.

Plaintiff's motion for a default judgment against defendant Ali only and those branches of defendant Ali's motion for an order granting said defendant leave to serve and file an Answer with affirmative defenses and counterclaims are hereby decided as follows:

Pursuant to CPLR 2004, Courts can extend the time imposed by statute upon good cause shown. Pursuant to CPLR 3012(d), "Upon the application of a party, the court may extend the time to appear or plead, or compel the acceptance of a pleading untimely served, upon such terms as may be just and upon a showing of reasonable excuse for delay or default." It is well-established law that: "[a] defendant who has failed to timely appear or answer the complaint must provide a reasonable excuse for the default and demonstrate a meritorious defense to the action, when . . . moving . . . to compel the acceptance of an untimely answer." (*Lipp v. Port Authority of New York and New Jersey*, 34 AD3d 649 [2d Dept 2006]).

The Court finds that there is no evidence of prejudice and that defendant Ali has provided a reasonable excuse for the delay.

Accordingly, defendant Ali shall serve and file an Answer or otherwise move pursuant to CPLR 3211 within thirty (30) days of service of a copy of this order with Notice of Entry.

The plaintiff's motion for a default judgment against defendant Ali is denied.

It is further ordered that plaintiff is directed to serve a copy of this order with notice of entry on all parties to the actions combined. The Clerk of Queens County shall be served with a copy of this order at the time of filing of the note of issue.

Plaintiff shall annex a copy of this order with any note of issue submitted.

The Court need not reach a determination on the remaining branches of the motions which seek dismissal pursuant to CPLR 3211(a)(4) and motions seeking restoration as such are rendered moot.

This constitutes the decision and Order of the Court.

A courtesy copy of this order is being mailed to counsel for the respective parties.

Dated: February 7, 2017



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Howard G. Lane, J.S.C.

FILED
FEB 21 2017
COUNTY CLERK
QUEENS COUNTY