

Hanlin v Vornado Realty Trust
2018 NY Slip Op 33052(U)
November 30, 2018
Supreme Court, New York County
Docket Number: 157169/2017
Judge: Kathryn E. Freed
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**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

VORNADO REALTY TRUST, SOLIL MANAGEMENT, LLC,
LUCIDA, INC., PENMARK MANAGEMENT LLC, H & M HENNES &
MAURITZ L P

DECISION AND ORDER

Defendant:

--x

The following e-filed documents, listed by NYSCEF document number (Motion 005) 115, 116, 117, 118, 119

were read on this motion to/for

AMEND CAPTION/PLEADINGS

In this personal injury action, plaintiff Hermine Hanlin moves for leave to file and serve a supplemental summons and amended verified complaint in order to add as new party defendants THE LUCINDA CONDOMINIUM and HALSTEAD MANAGEMENT COMPANY. Additionally, plaintiff wishes to remove as party defendants VORNADO REALTY TRUST SOLIL MANAGEMENT, LLC and LUCINDA, INC. The motion is unopposed. After a review of the motion papers, all relevant statutes and case law, this Court **grants** the motion.

This action arises from a serious injury to plaintiff which occurred on June 15, 2017 when plaintiff was caused to trip and fall over an unsafe condition in or on the sidewalk abutting 150 East 86th Street, New York, New York. Plaintiff commenced

this action on or about July 10, 2017. NYSCEF Doc. No. 1.¹ Issue was joined and bills of particular were served. See Docs. No. 14, 15, 16, 18, 19, 20, 21 and 23.

During the course of discovery, information was provided by to plaintiff that that the correct name of the defendant previously sued as LUCIDA, INC. is actually LUCIDA CONDOMINIUM. Plaintiff has also discovered that that the actual management company for the subject premises is HALSTEAD MANAGEMENT COMPANY, LLC. Plaintiff now seeks to amend the caption and the complaint to add a new cause of action against the new defendants and submits a proposed supplemental summons and amended complaint setting forth these allegations. See Doc. No. 119. Plaintiff additionally moves to discontinue her actions against VORNADO REALTY TRUST and SOLIL MANAGEMENT LLC and has annexed stipulations of discontinuance to her motion papers reflecting that the claims against those defendants are indeed discontinued. See Doc No. 118.

It is well settled that “[m]otions for leave to amend pleadings should be freely granted, absent prejudice or surprise resulting therefrom, unless the proposed amendment is palpably insufficient or patently devoid of merit.” (*Y.A. v Conair Corp.*, 154 AD3d 611, 612 [1st Dept 2017]; *see CPLR 3025 [b]; Pichler v*

¹ Unless otherwise noted, all references are to the documents filed on NYSCEF in this matter.

Jackson, ___ AD3d ___, 2018 NY Slip Op 00077 [1st Dept 2018].) Under this standard, the motion must be granted.

Accordingly, it is hereby:

ORDERED that the motion is granted and THE LUCINDA CONDOMINIUM and HALSTEAD MANAGEMENT COMPANY are added as new party defendants to the caption, and plaintiff is granted leave to file and serve the supplemental summons and amended verified complaint included as Exhibit C (See Doc. No. 119) to her motion papers; and it is further

ORDERED that the actions against LUCIDA, INC., VORNADO REALTY TRUST, and SOLIL MANAGEMENT LLC., are hereby discontinued; and it is further

ORDERED that the action shall hereinafter bear the following caption:

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X

HERMINE HANLIN,

Plaintiff,

- v -

THE LUCIDA CONDOMINIUM,
HALSTEAD MANAGEMENT COMPANY,
LLC., PENMARK MANAGEMENT LLC, and
H & M HENNES & MAURITZ L.P.,

Defendants.

-----X

And it is further

ORDERED that the supplemental summons and amended complaint in the form annexed to the moving papers shall be deemed served upon those parties who have already appeared in this action upon service by plaintiff of a copy of this order with notice of entry, which service shall be made within 20 days after this order is uploaded to NYSCEF; and it is further

ORDERED that the supplemental summons and amended complaint in the form annexed to the moving papers shall be personally served upon the new defendants, THE LUCINDA CONDOMINIUM and HALSTEAD MANAGEMENT COMPANY, along with a copy of this order, within 20 days of service of this order with notice of entry; and it is further

ORDERED that counsel for plaintiff is directed to e-file a completed "Notice to County Clerk" (Form EF-22), with a copy of this order attached thereto, within 20 days after this order is entered, and the Clerk is directed to mark this Court's records to reflect the new caption set forth above; and it is further

ORDERED that the parties are to appear for a preliminary conference in this matter on April 30, 2019 at 2:15 p.m. at 80 Centre Street, Room 280; and it is further

ORDERED that this constitutes the decision and order of this Court.

11/30/2018
DATE

CHECK ONE:

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CASE DISPOSED

 DENIED

APPLICATION:

GRANTED

<input checked="" type="checkbox"/>
<input type="checkbox"/>
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NON-FINAL DISPOSITION

 OTHER

CHECK IF APPROPRIATE:

SETTLE ORDER

GRANTED IN PART

<input type="checkbox"/>
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SUBMIT ORDER

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

 REFERENCE
KATHRYN E. FREED, J.S.C.