

Murray v One City Block LLC

2024 NY Slip Op 33919(U)

October 31, 2024

Supreme Court, New York County

Docket Number: Index No. 158539/2023

Judge: Denise M. Dominguez

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This opinion is uncorrected and not selected for official publication.

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

PRESENT: HON. DENISE M DOMINGUEZ PART 35M

Justice

-----X INDEX NO. 158539/2023

JAMES MURRAY, DENISE MURRAY MOTION SEQ. NO. 001

Plaintiffs,

- v -

ONE CITY BLOCK LLC, TACONIC MANAGEMENT
COMPANY LLC,

**DECISION + ORDER ON
MOTION**

Defendants.

-----X

The following e-filed documents, listed by NYSCEF document number (Motion 001) 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26

were read on this motion to/for AMEND CAPTION/PLEADINGS.

For the following reasons, Plaintiffs' motion (Seq. #1) to amend the caption and complaint, and to strike Defendant ONE CITY BLOCK LLC's ("ONE CITY") Answer is granted in part and denied without prejudice in part.

Plaintiffs move pursuant to CPLR§ 3025, to amend the caption to remove Defendant TACONIC MANAGEMENT COMPANY LLC ("TACONIC"), dismissing all claims against TACONIC, and to add new Defendant JONES LANG LASALLE AMERICAS, INC. ("JONES LANG"). Plaintiffs also seek to amend the complaint, to remove the claims as to TACONIC and to add new causes of action against JONES LANG. Plaintiffs seek these changes after initial discovery and disclosure by Defendant ONE CITY indicated that JONES LANG, not TACONIC, was the management company at the subject 111 Eight Avenue, New York, New York premises at the time of Plaintiff JAMES MURRAY's May 3, 2023 accident. In support of this branch of the motion, Plaintiffs submit the initial pleadings, an Affidavit of a John Burgess averring that JONES LANG was the management company and a stipulation executed by Plaintiffs and ONE CITY,

and the proposed supplemental summons and amended complaint. (NYSCEF Docs. 14, 15, 16, 17). ONE CITY does not oppose amending the caption and complaint (NYSCEF Doc. 22).

Accordingly, that branch of Plaintiffs motion which seeks to amend the caption and complaint is granted and Plaintiffs' claims against TACONIC are dismissed.

That branch of Plaintiffs' motion which seeks to strike ONE CITY's answer for failing to provide discovery, or alternatively, to compel outstanding discovery is denied without prejudice. Here, Plaintiffs' Affirmation of Good Faith (NYSCEF Doc. 21) does not attest to a time and date when the parties met in person, had a telephone conference or attempted to meet to discuss the disclosure issue in this motion as required in 22 NYCRR 202.7[c] and Part 35 rules. Reliance on written and/or email correspondence or voicemails is insufficient as this Court has made clear that it expects the parties to work together to resolve discovery before seeking the intervention of the Court. The parties are also directed to file any Affirmation of Good Faith as a separate document entitled as such and not as an Exhibit to the motion entitled "Exhibit" in the future to help ensure that it is not overlooked by the Court.

Accordingly, it is hereby

ORDERED that Plaintiffs' motion for leave to amend the caption and complaint pursuant to CPLR §3025 (b), is granted; and it is further

ORDERED that Plaintiffs' claims against Defendant TACONIC MANAGEMENT COMPANY LLC are hereby dismissed; and it is further

ORDERED that Plaintiffs shall file the supplemental summons and amended complaint, in the proposed form annexed to the moving papers (NYSCEF Doc. 17), within 30 days of service of a copy of this order with notice of entry; and it is further

ORDERED that the amended complaint, in the proposed form annexed to the moving papers (NYSCEF Doc. 17), shall be deemed served upon Defendant ONE CITY BLOCK LLC, by service of a copy of this order with notice of entry thereof; and it is further

ORDERED that Defendant ONE CITY BLOCK LLC shall serve an answer to the amended complaint or otherwise respond thereto within 20 days from the date of service of this order with notice of entry; and it is further

ORDERED that Plaintiffs shall serve the supplemental summons and amended complaint along with a copy of this Order with notice of entry on the proposed additional Defendant, JONES LANG LASALLE AMERICAS, INC., within 30 days of service of this order with notice of entry; and it is further

ORDERED that within 20 days of JONES LANG LASALLE AMERICAS, INC.'s appearance in this matter, Plaintiffs shall provide JONES LANG LASALLE AMERICAS, INC with courtesy copies of all previously served pleadings, as well as any orders, discovery demands and discovery responses exchanged by the parties; and it is further

ORDERED that Plaintiffs' motion to strike Defendant ONE CITY BLOCK LLC's answer, or alternatively to compel discovery is denied without prejudice; and it is further

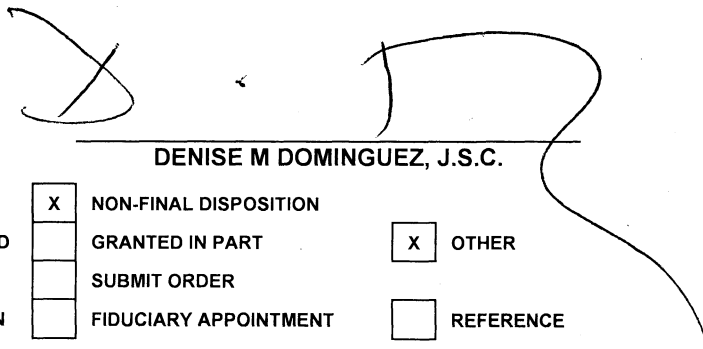
ORDERED that the parties are directed to proceed with discovery and submit their joint proposed Preliminary Conference Order in accordance with 22 NYCRR §202.12 and Part 35 Rules on or by January 14, 2024; and it is further

ORDERED that, within 15 days from the entry of this order, Plaintiffs shall serve a copy of this order with notice of entry on all parties, including Defendant TACONIC MANAGEMENT COMPANY LLC, and upon the Clerk of the General Clerk's Office, who is hereby directed to make all required notations thereof in the records of the court; and it is further

ORDERED that such upon the Clerk of the General Clerk's Office shall be made in accordance with the procedures set forth in the *Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases* (accessible at the "E-Filing" page on the court's website)].

Any requested relief not expressly addressed herein has nonetheless been considered by the Court and is hereby expressly denied.

10/31/2024
DATE


DENISE M DOMINGUEZ, 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