

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
FIRST DEPARTMENT

Guzman v. Americare, Inc.

2022 NY Slip Op 05752 (App. Div. 2022) · No. Appeal No. 16418; Case No. 2022-01314; Index No. 24877/18E
· Decided October 13, 2022

SUMMARY

The Appellate Division, First Department, affirmed the denial of defendants’ motion to amend their answer to add constitutional defenses challenging the definition of the certified class. The court held that the proposed defense was plainly meritless because it contravened the court’s prior class-certification determination and that permitting the amendment would prejudice the plaintiff.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, First Department
WRITING FOR THE COURT	Kapnick, J.P.; Webber, J.; González, J.; Kennedy, J.
JURISDICTION	New York
DECIDED	October 13, 2022
DOCKET	Appeal No. 16418; Case No. 2022-01314; Index No. 24877/18E
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendants appealed from an order denying their motion for leave to amend their answer to add an affirmative defense asserting additional constitutional defenses.
STANDARD OF REVIEW	The court reviewed the denial of leave to amend, applying the standards that a proposed defense devoid of merit should not be permitted and that prejudice from a late amendment may justify denial.
PRECEDENTIAL VALUE	precedential
PARTIES	Americare, Inc., et al. v. Laury Vasquez Guzman, individually and on behalf of all other persons similarly situated

TOPICS

- motion to amend
- affirmative defenses
- class actions
- due process
- appellate procedure

PRACTICE AREAS

civil procedure

class actions

constitutional law

QUESTIONS PRESENTED

1. Whether defendants should have been granted leave to amend their answer to add an affirmative defense asserting that the certified class violated their due process rights.
2. Whether the proposed constitutional defense was sufficiently meritorious to warrant amendment despite the prior class-certification determination and the late stage of the litigation.

HOLDINGS

1. Leave to amend was properly denied because the proposed defense was patently devoid of merit and contravened the court's prior determination that plaintiff was entitled to class certification.
2. Leave to amend was also properly denied because permitting defendants to challenge class certification again at that late stage would prejudice plaintiff.

KEY QUOTATIONS

“Thus, the proposed defense is patently devoid of merit”

“Moreover, plaintiff would be prejudiced if defendants were permitted to challenge the class certification again at this late stage in the litigation”

FACTUAL BACKGROUND

Plaintiff brought a class action against Americare and related defendants. After the Appellate Division had determined that plaintiff was entitled to class certification, defendants sought to amend their answer to assert that the class, as defined, violated their due process rights. The motion was made at a late stage of the litigation, and the court concluded that the proposed defense conflicted with the prior class-certification determination and would prejudice plaintiff.

PROCEDURAL HISTORY

The Supreme Court, Bronx County, denied defendants' motion for leave to amend their answer to the first amended class action complaint. Defendants appealed, and the Appellate Division, First Department, unanimously affirmed.

DISPOSITION

affirmed

CASES CITED

- Guzman v. Americare, Inc., 202 AD3d 504, 504 (1st Dept 2022)
- 38 NY3d 1156 (2022)

- MBIA Ins. Corp. v. Greystone & Co. Inc., 74 AD3d 499, 499 (1st Dept 2010)
- Kocourek v. Booz Allen Hamilton Inc., 85 AD3d 502, 505 (1st Dept 2011)

OPINION

PER CURIAM.

Guzman v Americare, Inc. (2022 NY Slip Op 05752) Guzman v Americare, Inc. 2022 NY Slip Op 05752 Decided on October 13, 2022 Appellate Division, First Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This opinion is uncorrected and subject to revision before publication in the Official Reports. Decided and Entered: October 13, 2022 Before: Kapnick, J.P., Webber, González, Kennedy, JJ. Index No. 24877/18E Appeal No. 16418 Case No. 2022-01314 [*1]Laury Vasquez Guzman, Individually and on Behalf of All Other Persons Similarly Situated, Plaintiff-Respondent, vAmericare, Inc., et al., Defendants-Appellants, Does #1-10, Defendants.

Peckar & Abramson, P.C., New York (Kevin J. O'Connor of counsel), for appellants. Law Office of William Coudert Rand, New York (William C. Rand of counsel), for respondent. Order, Supreme Court, Bronx County (Leticia M. Ramirez, J.), entered on or about March 7, 2022, which denied defendants' motion for leave to amend their answer to the first amended class action complaint to include an affirmative defense asserting additional constitutional defenses, unanimously affirmed, without costs.

Defendants sought to add an affirmative defense asserting that the class, as defined, violated their due process rights. The proposed defense, however, was in clear contravention of this Court's prior determination that plaintiff was entitled to class certification (Guzman v Americare, Inc., 202 AD3d 504, 504 [1st Dept 2022], lv dismissed 38 NY3d 1156 [2022]).

Thus, the proposed defense is patently devoid of merit (see MBIA Ins. Corp. v Greystone & Co. Inc., 74 AD3d 499, 499 [1st Dept 2010]). Moreover, plaintiff would be prejudiced if defendants were permitted to challenge the class certification again at this late stage in the litigation (see Kocourek v Booz Allen Hamilton Inc., 85 AD3d 502, 505 [1st Dept 2011]).

We have considered defendants' remaining contentions and find them unavailing. THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT. ENTERED: October 13, 2022