

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,  
SECOND JUDICIAL DEPARTMENT

Davis v. Commack Hotel, LLC

2022 N.Y. Slip Op. 06905 (N.Y. Ct. App. 2022) · No. 2019-08083 · Decided December 7, 2022

SUMMARY

The Appellate Division, Second Department affirmed the denial of the plaintiff's motion to stay a state personal-injury action pending resolution of a related federal action. The court held that the state and federal actions lacked substantial identity because the federal action involved alleged unconstitutional retaliation by Suffolk County and New York State Troopers, not the defendants in the state action.

CASE DETAILS

|                       |                                                                                                                                     |
|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of the State of New York, Appellate Division, Second Judicial Department                                              |
| WRITING FOR THE COURT | Per Curiam; Betsy Barros, J.P.; Robert J. Miller, J.; Deborah A. Dowling, J.; Barry E. Warhit, J.                                   |
| JURISDICTION          | New York                                                                                                                            |
| DECIDED               | December 7, 2022                                                                                                                    |
| DOCKET                | 2019-08083                                                                                                                          |
| DISPOSITION           | affirmed                                                                                                                            |
| PROCEDURAL POSTURE    | The plaintiff appealed from an order denying his motion to stay the state action pending determination of a related federal action. |
| PRECEDENTIAL VALUE    | Published intermediate appellate opinion                                                                                            |
| PARTIES               | Stanley Davis v. Commack Hotel, LLC                                                                                                 |

TOPICS

- civil procedure
- appellate procedure
- personal injury
- wrongful death

PRACTICE AREAS

- civil procedure
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- personal injury
- wrongful death

QUESTIONS PRESENTED

1. Whether the Supreme Court properly denied a stay of the state action pending determination of the plaintiff's federal action.

## HOLDINGS

1. The motion for a stay was properly denied because the state and federal actions did not share substantial identity of parties, claims, and relief sought; the federal action did not involve any of the defendants named in the state action.

## KEY QUOTATIONS

*"Although it has been held that "a stay pending determination of a related proceeding should be granted only when the other proceeding shares complete identity of parties, claims and relief sought," it has also been held that a stay may be warranted "when there is substantial identity between state and federal actions""*

*"Here, the plaintiff's motion for a stay was properly denied because there was not a substantial identity between the state and federal actions, as the federal action alleged unconstitutional retaliation against the plaintiff by the County of Suffolk and New York State Troopers, and did not involve any of the defendants named in this state action."*

## FACTUAL BACKGROUND

On November 13, 2010, the plaintiff's son was stabbed to death by Carlos Rodriguez during a party in a room at a hotel owned and operated by Commack Hotel, LLC, doing business as Howard Johnson. The plaintiff commenced a wrongful-death and personal-injury-related action against the hotel and Rodriguez. He later sought to stay that action pending a federal action alleging unconstitutional retaliation by Suffolk County and New York State Troopers.

## PROCEDURAL HISTORY

The plaintiff, as administrator of the decedent's estate, brought a state action seeking damages for negligence, wrongful death, and conscious pain and suffering. The plaintiff had previously obtained summary judgment on liability, which was affirmed insofar as appealed from. The Supreme Court, Suffolk County, denied the plaintiff's motion to stay the state action pending resolution of his federal action alleging unconstitutional retaliation, and the Appellate Division affirmed.

## DISPOSITION

affirmed

## CASES CITED

- Davis v. Commack Hotel, LLC, 174 A.D.3d 501 (N.Y. App. Div. 2d Dep't 2019)
- Asher v. Abbott Labs., 307 A.D.2d 211, 211 (N.Y. App. Div. 1st Dep't 2003)
- Trinity Prods., Inc. v. Burgess Steel LLC, 18 A.D.3d 318, 319 (N.Y. App. Div. 1st Dep't 2005)

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