

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK

Jose Alberto Castillo Abreu, Martha Yvette Diaz, and Rodolfo A. Rodriguez Abreu v. Oscar A. Alvarez, OJS Trucking LLC, Food Haulers Inc., Wakefern Food Corp., and Shop-Rite Supermarkets, Inc.

Abreu v. Alvarez · No. 21 Civ. 1641 (RER) (VMS) · Decided February 13, 2026

SUMMARY

The United States District Court for the Eastern District of New York grants Defendants’ motion to amend their answer to add a counterclaim for fraud based on allegations that the motor vehicle accident was staged and that Plaintiffs’ injuries were exaggerated or fabricated. The Court rejects Plaintiffs’ arguments concerning futility, bad faith, undue delay, and undue prejudice, and sets deadlines for filing the amended pleading, responding to it, and proposing limited additional discovery.

CASE DETAILS

COURT	United States District Court for the Eastern District of New York
WRITING FOR THE COURT	Vera M. Scanlon
JURISDICTION	United States District Court for the Eastern District of New York
DECIDED	February 13, 2026
DOCKET	21 Civ. 1641 (RER) (VMS)
DISPOSITION	other
PROCEDURAL POSTURE	Defendants moved for leave to amend their answer to add a counterclaim for fraud based on allegations that Plaintiffs staged the motor vehicle accident and exaggerated or falsified their injuries. The court granted the motion.
STANDARD OF REVIEW	Leave to amend is governed by Federal Rules of Civil Procedure 15 and 16. Where the amendment is sought after the scheduling-order deadline, the moving party must show good cause under Rule 16(b) (4), and leave may be denied for futility, bad faith, undue delay, or undue prejudice. In assessing futility, the court applies the Rule 12(b)

	(6) standard and considers whether the proposed amendment states a plausible claim.
PRECEDENTIAL VALUE	unpublished
PARTIES	Jose Alberto Castillo Abreu, Martha Yvette Diaz, Rodolfo A. Rodriguez Abreu v. Oscar A. Alvarez, OJS Trucking LLC, Food Haulers Inc., Wakefern Food Corp., Shop-Rite Supermarkets, Inc.

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QUESTIONS PRESENTED

1. Whether Defendants should be granted leave under Federal Rules of Civil Procedure 15 and 16 to amend their answer to add a fraud counterclaim after the close of discovery.
2. Whether the proposed fraud counterclaim was futile because it failed to state a plausible claim.
3. Whether bad faith, undue delay, or undue prejudice warranted denial of leave to amend.

HOLDINGS

1. The proposed fraud counterclaim was not futile because Defendants' allegations that Plaintiffs staged the accident and exaggerated or falsified their injuries, supported by allegations derived from discovery and investigation, were sufficient at the pleading stage.
2. Plaintiffs did not establish bad faith or undue delay sufficient to deny leave to amend.
3. Plaintiffs did not establish undue prejudice warranting denial of leave to amend.
4. Defendants' motion for leave to amend their answer to add a fraud counterclaim was granted.

KEY QUOTATIONS

“The second standard, set forth in Federal Rule of Procedure 15(a)(2), permits a party to amend its pleading either (1) on written consent of the opposing party or (2) on motion by the party seeking leave to do so, which the court should grant “freely . . . when justice so requires,” and should deny only “upon a showing of undue delay, bad faith, dilatory motive, [or] futility.”” (Discussion)

“Although allowance of the proposed amendment may require some additional effort on the part of parties and counsel, such additional effort does not constitute undue prejudice warranting the denial of the motion” (Discussion § I.D)

FACTUAL BACKGROUND

Plaintiffs alleged that Defendant Oscar Alvarez negligently and recklessly caused a December 9, 2020 motor vehicle accident and that the corporate Defendants negligently hired, trained, and supervised him. Defendants alleged that Plaintiffs staged the accident and exaggerated or falsified their injuries, relying on information obtained through discovery and investigation, including inconsistencies concerning the accident, the passengers, the trip preceding the collision, the vehicle damage, and the claimed medical treatment. Discovery had closed on September 15, 2023, but no dispositive motions, joint pretrial order, or trial date had been set.

PROCEDURAL HISTORY

Plaintiffs commenced the action in New York Supreme Court, Queens County, arising from a December 9, 2020 motor vehicle accident. Defendants answered, asserted a contribution and indemnification counterclaim, and removed the action to the Eastern District of New York on diversity grounds. After discovery concluded, Defendants sought to amend their answer to add a fraud counterclaim; the court construed the pre-motion conference request as the motion and granted leave to amend, with limited additional discovery authorized.

DISPOSITION

other

CASES CITED

- *Sacerdote v. New York Univ.*, 9 F.4th 95, 115 (2d Cir. 2021)
- *Presbyterian Church of Sudan v. Talisman Energy, Inc.*, 582 F.3d 244, 267 (2d Cir. 2009)
- *Cohen v. Am. Airlines, Inc.*, 13 F.4th 240, 247 (2d Cir. 2021)
- *Alphonse Hotel Corp. v. Tran*, 828 F.3d 146, 152 (2d Cir. 2016)
- *In re Trib. Co. Fraudulent Conv. Litig.*, 10 F.4th 147, 175 (2d Cir. 2021)
- *Trs. of Upstate N.Y. Eng'rs Pension Fund v. Ivy Asset Mgmt.*, 843 F.3d 561, 566-67 (2d Cir. 2016)
- *Sierra Club v. Con-Strux, LLC*, 911 F.3d 85, 88 (2d Cir. 2018)
- *Perez v. Escobar Constr., Inc.*, 342 F.R.D. 378, 380 (S.D.N.Y. 2022)
- *Travelex Currency Servs., Inc. v. Puente Enters., Inc.*, 449 F. Supp. 3d 385, 395 (S.D.N.Y. 2020)
- *Amaya v. Roadhouse Brick Oven Pizza, Inc.*, 285 F.R.D. 251, 253 (E.D.N.Y. 2012)
- *A.V.E.L.A., Inc. v. Estate of Monroe*, 34 F. Supp. 3d 311, 316 (S.D.N.Y. 2014)
- *A.V.E.L.A., Inc. v. Estate of Monroe*, 34 F. Supp. 3d 311, 318 (S.D.N.Y. 2014)