

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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JAMIE A. NAUGHRIGHT,

Plaintiff,

10 Civ. 8451

-against-

OPINION

DONNA KARAN WEISS, URBAN ZEN, LLC,  
STEPHEN M. ROBBINS, JOHN DOES 1-25,

Defendants.  
-----X

A P P E A R A N C E S:

Attorneys for Plaintiff

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**Sweet, D.J.**

Defendants Donna Karan Weiss ("Karan") and Urban Zen, LLC ("Urban Zen") (collectively referred to as the "Karan Defendants") have moved (i) for partial final judgment as to the Karan Defendants, pursuant to Fed. R. Civ. P. 54(b) ("Rule 54(b)"); (ii) to amend the caption by deleting the Karan Defendants, pursuant to Fed. R. Civ. P. 15; and (iii) to enjoin the plaintiff, Jamie A. Naughtright ("Naughtright" or the "Plaintiff") from continuing this action or instituting any further action or actions against the Karan Defendants, pursuant to 28 U.S.C. § 1927, 28 U.S.C. § 1651(a). Based upon the conclusions set forth below, the motions to amend the caption and partial final judgment are granted and the motion for an injunction is denied.

**Prior Proceedings**

Naughtright filed a complaint against the defendants on November 8, 2010. The complaint was dismissed on November 18, 2011. The amended complaint was filed on December 9, 2011,

alleging injuries resulting from treatment Naughtright received on November 8, 2009, at Karan's apartment.

In an opinion issued on March 7, 2012 (the "March 7 Opinion"), the negligent misrepresentation claim against the Karan Defendants was dismissed, the motion to dismiss the negligence claim against defendant Stephen M. Robbins ("Robbins") was denied, the fraud claim against Robbins was dismissed in part, and the motion to dismiss the medical malpractice battery and failure to obtain consent claims against Robbins were denied.

The instant motion was heard and marked fully submitted on December 12, 2012.

#### **The Applicable Rule 54(b) Standard**

In an action involving multiple claims or multiple parties, an order that finally disposes of fewer than all claims against all parties is generally not entered as a "final judgment." Rule 54(b). However, Rule 54(b) permits the court to expressly direct the entry of final judgment as to individually dismissed claims or parties when: (1) there has

been a "final decision" on at least one claim or the rights and liabilities of at least one party; and (2) the district court makes an express determination that there is "no just reason for delay" and expressly directs the clerk to enter judgment. Id.; see also, e.g., Correspondent Servs. Corp. v. J.V.W. Inv. Ltd., 232 F.R.D. 173 (S.D.N.Y. 2005). The determination of whether "there is no just reason for delay" is committed to the sound discretion of the district court, with the guiding principle of promoting the efficiency interests of both the district and appellate courts, as well as the balance of equities as to the parties. Id. at 175-76. The interests of justice and judicial economy are best served by entry of partial final judgment when: (1) the claims upon which final judgment is being entered are separable and extricable from any remaining claims; (2) the potential for duplicative work could be avoided if the dismissed claim was reversed in time to be tried with the remaining claims; and/or (3) there exists some danger of hardship or injustice through delay which would be alleviated by immediate appeal. Advanced Magnetics, Inc. v. Bayfront Partners, Inc., 106 F.3d 11 (2d Cir. 1997); Correspondent Servs., 232 F.R.D. at 175 (citations omitted).

**No Just Reason To Delay The Judgment Has Been Established**

Naughtright has not opposed the 54(b) motion of the Karan Defendants. The claims against the Karan Defendants are separable from the claims against Robbins. Although the Karan Defendants were involved in the circumstances giving rise to Naughtright's claims against Robbins, no basis for delaying the entry of a partial judgment dismissing claims against the Karan Defendants has been established.

A dismissal with prejudice pursuant to Rule 12(b)(6) is a final decision and judgment on the merits. See, e.g., Lipin v. Nat'l Union Fire Ins. Co. of Pittsburgh, PA, 202 F. Supp. 2d 126, 136 (S.D.N.Y. 2002). Courts in this District have granted certification and entry of final judgment as to a particular defendant in the wake of a dismissal on Rule 12(b)(6) grounds. See, e.g., In re Refco, Inc. Sec. Litig., 609 F. Supp. 2d 304 (S.D.N.Y. 2009) (holding there was no just reason for delay, and directing the Clerk, pursuant to Fed. R. Civ. P. 54(b), to enter final judgment as to the dismissal of plaintiff's claims against a particular defendant pursuant to Rule 12(b)(6)).

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