

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: <u>HON. ARLENE P. BLUTH</u>	PART	IAS MOTION 32
<i>Justice</i>		
-----X	INDEX NO.	<u>653083/2017</u>
AMAR JAMIL for and on behalf of NEW LAHORI KABAB INC	MOTION DATE	<u>N/A</u>
Plaintiff,	MOTION SEQ. NO.	<u>005</u>

- v -

122-24 LEXINGTON AVENUE CORP. IN CARE OF SKYLAND
MANAGEMENT, WESCO INSURANCE COMPANY a/k/a
AMTRUST NORTH AMERICA,

Defendants.

DECISION AND ORDER

-----X

The following e-filed documents, listed by NYSCEF document number (Motion 005) 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138 were read on this motion to/for AMEND CAPTION/PLEADINGS.

The motion for leave to amend is denied.

As an initial matter, plaintiff failed to highlight the proposed changes and additions in the proposed amended complaint (*see* CPLR 3025[b]). The Court’s role on a motion for leave to amend is to assess whether the proposed changes state a cause of action, not to guess about what changes were made.

Plaintiff’s affirmation in support appears to request the addition of a new party, New Lahori Kabab Inc., but the proposed amended complaint does not specify which causes of action are alleged by which plaintiff (compare NYSCEF Doc. No. 122 with 128).

The Court also observes that the proposed amended complaint alleges claims against Wesco Insurance Company (“Wesco”) despite the fact that this Court previously dismissed all claims against Wesco (NYSCEF Doc. No. 63).

And, finally, plaintiff failed to meet his prima facie burden to sufficiently articulate the basis for his motion. Plaintiff contends that he and New Lahori Kabab, Inc. are separate entities,

NYSCEF DOC. NO. 142

RECEIVED NYSCEF: 01/25/2019

but this Court has already found that "there is only one plaintiff, the corporation" (NYSCEF Doc. No. 114). Plaintiff provides no justification for the additional causes of action, did not explain why New Lahori Kabab should be added, and he did not even submit a reply to address defendants' opposition.

Accordingly, it is hereby

ORDERED that the motion is denied.

Next Conference: May 7, 2019 at 2:15 p.m. By that time, the Court expects that both paper discovery and depositions will be completed. Failure to do so may result in penalties being imposed.

DATE 1.24.19

ARLENE P. BLUTH, J.S.C.
HON. ARLENE P. BLUTH

CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION	<input type="checkbox"/>	OTHER
	<input type="checkbox"/>	GRANTED	<input checked="" type="checkbox"/>	DENIED	<input type="checkbox"/>	
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>	SUBMIT ORDER	<input type="checkbox"/>	REFERENCE
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input type="checkbox"/>	