State of New York
Court of Appeals

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December 18, 2014

NOTICE TO BAR

Amicus Curiae Participation

On December 18, 2014, the Court granted leave to appeal in Yaniveth R. v LTD Realty Co., which will be scheduled for full briefing and oral argument.

Plaintiffs brought an action against the landlord of an apartment building for damages allegedly resulting when the infant plaintiff was exposed to a hazardous lead paint condition at the apartment where her grandmother lived and cared for her approximately 50 hours each week. Supreme Court granted the landlord's motion for summary judgment dismissing the complaint upon the ground that the child did not reside in her grandmother's apartment within the meaning of a New York City local law requiring landlords to abate lead paint "in any dwelling unit in which a child or children six (6) years of age and under reside" (see Administrative Code of City of NY, former § 27-1013[h][1]) ("Local Law 1"). The Appellate Division affirmed, holding that the landlord established as a matter of law that the infant plaintiff was cared for at her grandmother's apartment during the day, but resided elsewhere with her parents (120 AD3d 1142).

Plaintiffs argue that the term "reside" should be read broadly to encompass a situation where a child spends a significant amount of time in two places, because the purpose of the statute is to protect children from the hazard of lead paint. Plaintiffs assert that the courts below improperly conflated residence with domicile, which are distinct concepts.

The Court invites amicus to address what the term "reside" means under Local Law 1 and whether the infant plaintiff resided at the subject apartment for purposes of the statute.

Amicus motions must comply with section 500.23(a)(1) of the Rules. The text of the Rule is available on the Court's website at:

http://www.courts.state.ny.us/ctapps/500rules.htm.#Amicus

Questions may be directed by telephone to the Clerk's Office at (518) 455-7705.