

Mena v City of New York

2024 NY Slip Op 33885(U)

October 30, 2024

Supreme Court, New York County

Docket Number: Index No. 158898/2022

Judge: Hasa A. Kingo

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. HASA A. KINGO PART 05M

Justice

-----X

WILSON TEJADA MENA,

Plaintiff,

- v -

THE CITY OF NEW YORK, THE NEW YORK CITY
DEPARTMENT OF TRANSPORTATION

Defendant.

-----X

INDEX NO. 158898/2022

MOTION DATE 10/01/2024

MOTION SEQ. NO. 001

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 001) 8, 9, 10, 11, 12, 13 were read on this motion to/for CONSOLIDATE/JOIN FOR TRIAL

Upon the foregoing documents, it is ORDERED that Plaintiff Wilson Tejada Mena's (hereinafter "Plaintiff") motion to consolidate, pursuant to CPLR §602, is granted without opposition. Plaintiff seeks to consolidate this action, Index No.: 158898/2022 (Action #1), with a related action pending in this court, the Supreme Court, New York County, bearing Index No.: 159747/2023 (Action #2). Plaintiff argues that both actions arise from identical facts and circumstances and involve common questions of law and fact.

CPLR §602 states that "[w]hen actions involving a common question of law or fact are pending before a court, the court, upon motion ... may order the actions consolidated." A motion to consolidate is addressed to the sound discretion of the trial court (Progressive Ins. Co. v Vasquez, 10 AD3d 518, 519 [1st Dept 2004]). "There is a preference to join cases for discovery and trial in the interests of judicial economy and ease of decision-making where there are common questions of law and fact" between the two actions involved (Lema v 1148 Corp., 176 AD3d 653, 654 [1st Dept 2019]). Absent a showing of prejudice to a substantial right by a party opposing the

motion, consolidation should be granted where common questions of fact or law exist (*Lema*, 176 AD3d at 654).

Here, it is undisputed that the actions arise out of the same accident and involve the same questions of law and fact. Additionally, there is no opposition to the motion and no showing of prejudice to a substantial right. Therefore, a full consolidation of the two actions would minimize court expense, as well as the time witnesses and parties will have to appear and will avoid duplication of testimony and expedite discovery. Accordingly it is hereby

ORDERED that the motion is granted and the above-captioned action is consolidated in this Court with WILSON TEJADA MENA vs. CONSOLIDATED EDISON COMPANY OF NEW YORK INC., Index No. 159747/2023 (Action #2), pending in this Court; and it is further

ORDERED that the consolidation shall take place under Index No. 158898/2022 and the consolidated action shall bear the following caption:

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X Index No.: 158898/2022

WILSON TEJADA MENA,

Plaintiff,

-against-

THE CITY OF NEW YORK, THE NEW YORK CITY
DEPARTMENT OF TRANSPORTATION, and
CONSOLIDATED EDISON COMPANY OF NEW
YORK INC.,

Defendants.

-----X

And it is further

ORDERED that the pleadings in the actions hereby consolidated shall stand as the pleadings in the consolidated action; and it is further

ORDERED that, within 30 days from entry of this order, movant shall serve a copy of this order with notice of entry on the Clerk of the Court, who shall consolidate the documents in the actions hereby consolidated and shall mark his records to reflect the consolidation; and it is further

ORDERED that counsel for the movant shall contact the staff of the Clerk of the Court to arrange for the effectuation of the consolidation hereby directed; and it is further

ORDERED that service of this order upon the Clerk of the Court shall be made in accordance with the procedures set forth in the *Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases* (accessible at the “E-Filing” page on the court’s website); and it is further

ORDERED that, as applicable and insofar as is practical, the Clerk of this Court shall file the documents being consolidated in the consolidated case file under the index number of the consolidated action in the New York State Courts Electronic Filing System or make appropriate notations of such documents in the e-filing records of the court so as to ensure access to the documents in the consolidated action; and it is further

ORDERED that, within 30 days from entry of this order, movant shall serve a copy of this order with notice of entry on the Clerk of the General Clerk’s Office, who is hereby directed to reflect the consolidation by appropriately marking the court’s records; and it is further

ORDERED that such service upon the Clerk of the General Clerk’s Office shall be made in accordance with the procedures set forth in the aforesaid *Protocol*; and it is further

ORDERED that the Clerk is directed to set this matter down for a preliminary conference in the Differentiated Case Management Part on the next available date.

This constitutes the decision and order of the court.

HASA A. KINGO, J.S.C.

10/30/2024

DATE

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE