

Soto v Sideris

2024 NY Slip Op 34456(U)

December 12, 2024

Supreme Court, New York County

Docket Number: Index No. 158048/2022

Judge: Jeanine R. Johnson

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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. JEANINE R. JOHNSON PART 52-M

Justice

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LISSETTE SOTO,

Plaintiff,

- v -

GEORGE SIDERIS, DONNA ONG, EMPIRE
DEVELOPMENT FUND 3, LLC, THE CITY OF NEW YORK,
NEW YORK CITY DEPARTMENT OF TRANSPORTATION

Defendant.

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INDEX NO. 158048/2022

MOTION DATE 07/09/2024

MOTION SEQ. NO. 001

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 001) 21, 22, 23, 24, 25, 26, 27, 28, 29

were read on this motion to/for CONSOLIDATE/JOIN FOR TRIAL.

Upon the foregoing documents and oral argument held on 10/03/2024, Plaintiff's motion to amend the Summons and Complaint pursuant to CPLR § 3025(b) is granted without opposition. Plaintiff's motion pursuant to CPLR § 602(a), to consolidate Action No. 2, Lissette Soto v. Empire Development Fund 3 LLC., Index No. 152986/2023 and Action No. 3, Lissette Soto v. George Sideris, Donna Ong, Index No. 161421/2023, with the matter known as Lissette Soto v. The City of New York, New York City Department of Transportation, Index No. 158048/2022, is granted.

Amend Complaint

CPLR § 3025(b) states "A party may amend his or her pleading or supplement it by setting forth additional or subsequent transactions or occurrences, at any time by leave of court or by stipulation of all parties. Leave shall be freely given upon such terms as may be just including the granting of costs and continuances. Any motion to amend or supplement pleadings shall be accompanied by the proposed amended or supplemental pleading clearly showing the

changes or additions to be made to the pleading.” See *Fahey v. County of Ontario*, 44 N.Y.2d 934 (1978) (“Leave to amend shall be freely given absent prejudice or surprise resulting directly from the delay”); *Briggs v. NYC Transit Authority*, 132 A.D.2d 451 (1st Dep’t 1987).

Plaintiff requests leave to amend the Verified Complaints in action No.’s 1-3 to reflect the date of the accident which occurred on July 14, 2021. This Court finds that there is no prejudice or surprise resulting from Plaintiff’s request for an amendment to the complaint and it is granted without opposition.

Consolidation

CPLR § 602 governs consolidation and in relevant part states:

(a) “When actions involving a common question of law or fact are pending before a court, the court, upon motion, may order a joint trial of any or all the matters in issue, may order the actions consolidated, and may make such other orders concerning proceedings therein as may tend to avoid unnecessary costs or delay.”

This Court finds that all actions involve common questions of law and fact. Consolidation will avoid unnecessary duplication of proceedings and no prejudice to any of the non-movants is evident. See *Rockaway Blvd. Wrecking & Lbr. Co. v. Raylite Elec. Corp.*, 25 A.D.2d 842 (1st Dep’t 1966) (“Consolidation of two actions is a proper exercise of discretion where they both involve determination of a central factual issue”); *Disa Realty, Inc. v. Rao*, 198 A.D.3d 869 (2d Dep’t 2021).

Accordingly, it is hereby

ORDERED that Plaintiff’s motion for leave to amend the Summons and Complaint is granted; it is further

ORDERED that Plaintiff's proposed supplemental Summons and Amended Complaint filed and timely served *nunc pro tunc*; it is further

ORDERED that the proposed supplemental summons and amended complaint, in the form annexed to the motion papers, shall be deemed served upon service of a copy of this order with notice of entry upon all parties who have appeared in the action; it is further

ORDERED that the motion is granted to the extent that Index No. 152986/2023 and Index No. 161421/2023 is joined under Index No. 158048/2022; it is further

ORDERED that the consolidated action shall bear the below caption:

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LISSETTE SOTO a/k/a LISSETTE Q. OSORIO

Plaintiff,

- v -

GEORGE SIDERIS, DONNA ONG, EMPIRE DEVELOPMENT FUND 3, LLC, THE CITY OF NEW YORK, NEW YORK CITY DEPARTMENT OF TRANSPORTATION

Defendant.

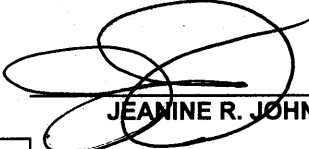
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ORDERED that the movant shall serve this Order upon all parties with a notice of entry within forty-five (45) days of entry of this Order and file proof of service within ten (10) days from effectuating said service on the Clerk of the Court, who shall consolidate the referenced matters; and it is further

ORDERED that service of this order upon the Clerk of the Court shall be made in hard-copy format if this action is a hard-copy matter or if it is an e-file case, 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).

This Constitutes the Decision and Order of the Court.

<u>12/12/2024</u> DATE			 JEANINE R. JOHNSON, J.S.C.
CHECK ONE:	<input type="checkbox"/> CASE DISPOSED	<input checked="" type="checkbox"/> NON-FINAL DISPOSITION	
	<input checked="" type="checkbox"/> GRANTED	<input type="checkbox"/> DENIED	<input type="checkbox"/> OTHER
APPLICATION:	<input type="checkbox"/> SETTLE ORDER	<input type="checkbox"/> SUBMIT ORDER	
CHECK IF APPROPRIATE:	<input type="checkbox"/> INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/> FIDUCIARY APPOINTMENT	<input type="checkbox"/> REFERENCE