

**STATE OF NEW YORK
LITIGATION COORDINATING PANEL**

560001/16
Sub. # 2

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RAJENDRA BK,

Plaintiff,

Panel Case No. 001/2015

: Index No. 156947/2015

- against -

: Pending in the:
First Judicial District

DECISION AND ORDER

THE CITY OF NEW YORK, CONSOLIDATED
EDISON COMPANY OF NEW YORK, INC. MAH
REALTY LLC, MARIA HRYNENKO, MICHAEL
"MISCHOU" HRYNENKO JR, NEIGHBORHOOD
CONSTRUCTION CORPORATION and DILBER
KUKIC,

Defendants

Filed in the New York County
Clerk's Office

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AND OTHER MATTERS LISTED IN THE APPENDIX

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FILED

MAR - 9 2016

**COUNTY CLERKS OFFICE
NEW YORK**

NATURE OF APPLICATION AND APPEARANCES

This application for coordination is filed by Consolidated Edison Company of New York, Inc. and Consolidated Edison Energy Delivery Services (collectively "Con Edison"), pursuant to section 202.69 of the Uniform Rules for the Trial Courts of the State of New York (22 NYCRR 202.69). Each action (10 at the time of the application - now 13 actions), alleges claims for personal injury, emotional distress, property damage and lost profits, that arise out of, or relate to, the March 26, 2015 gas explosion located at or near 121 Second Avenue, New York, New York (the "Incident"). In each action, it is alleged that the cause of the Incident was negligence or recklessness on the part of Con Edison and more than a dozen other individuals or entities also named as defendants in some or all of the actions.

Con Edison, by its counsel, in the above-captioned action, and in those listed on the attached Appendix, requests coordination. Five of the actions are pending in the Supreme Court, New York County, two in the Civil Court of the City of New York, County of New York, and the remaining six actions are pending in the Supreme Court, Bronx County.

Con Edison seeks to coordinate the above-captioned action with those actions listed in the Appendix, and any other subsequently filed action, and any action that is pending at the time of this application, but not included in this application for coordination, pursuant to Section 202.69 of the Uniform Rules for the Trial Courts. Con Edison asserts that the actions should be coordinated because all of the cases share common negligence allegations and seeks damages for injuries allegedly caused by a single event. Con Edison asserts that coordination will afford the most efficient means for conducting discovery and pre-trial motion practice, and will serve to avoid duplicative discovery, reduce the risk of inconsistent rulings, conserve judicial resources and prevent undue inconvenience of the parties, witnesses and counsel. Con Edison further submits that New York County is the proper county for coordination because New York County is (1) the site of the Incident from which all claims arise, (2) the site of the property damaged by the Incident, and (3) the county of residence or employment of the vast majority of the parties and nearly all of the named plaintiffs.

The plaintiffs all support and consent to the application for coordination. Every plaintiff that has responded to the application, except for one, agrees that New York County is the most appropriate venue for coordinated proceedings to take place. Only one plaintiff submits that the actions should be coordinated in Bronx County, but provides no support whatsoever for that position.

ANALYSIS

The goals of coordination include the promotion of efficient and expeditious discovery, the avoidance of inconsistent decisions, and ensuring the most orderly use of judicial time and resources without undue prejudice to parties.

Upon consideration of all of the issues, including that of judicial economy, the Panel finds that the purposes of Section 202.69 of the Uniform Rules for the Trial Courts of the State of New York are best served by granting the application for coordination. In this regard, the Panel unanimously agrees that coordination will be advantageous and efficient for all parties, and will not prejudice any party.

The Panel also agrees that New York County is the best choice for venue. Among other things, 7 of the actions are filed in New York County and this is the situs of all of the relevant events. New York County is well suited to manage cases involving incidents such as this. Moreover, the New York County courthouse is not burdensome for any litigants, witnesses or counsel for any party to travel to.

CONCLUSION

The Panel grants the application and directs that coordination of these related matters be before a Coordinating Justice in the First Judicial District, Supreme Court, County of New York - Civil Branch, and that the Justice to whom this litigation is assigned should be familiar with the issues raised by these actions and the process of handling coordinated cases.

Accordingly, upon due deliberation, and for the reasons stated, it is hereby:

ORDERED, that the actions set forth above and in the Appendix shall be coordinated pursuant to Section 202.69 of the Uniform Rules for the Trial Courts of the State of New York, in the Supreme Court, New York County, before a Coordinating Justice of said County; and it is further

ORDERED, that any action that alleges claims for personal injury, emotional distress, property damage and lost profits stemming from the March 26, 2015 gas explosion incident located at or near 121 Second Avenue, New York, New York, that is filed in any court of the State of New York and which remains active, but is not listed in the caption above or on the Appendix and any such action that is filed hereafter shall, in accordance with Subdivision F of the Procedures of the Panel, likewise be coordinated pursuant to Section 202.69 of the Uniform Rules for the Trial Courts of the State of New York, before the Coordinating Justice, unless the Panel rules otherwise pursuant to Subdivision F of the Procedures of the Panel; and it is further

ORDERED, that pursuant to Section 202.69(c)(1) of the Uniform Rules for the Trial Courts of the State of New York, the **Honorable Peter Moulton**, the Administrative Judge of the First Judicial District (Civil Branch) shall assign the Coordinating Justice; and it is further

ORDERED, that the Clerk of the Panel shall forthwith transmit a copy of this Decision and Order to counsel for all parties herein, the Justices to whom each of the above actions is currently assigned and to the **Honorable Peter Moulton**, Administrative Judge for the First Judicial District; and it is further

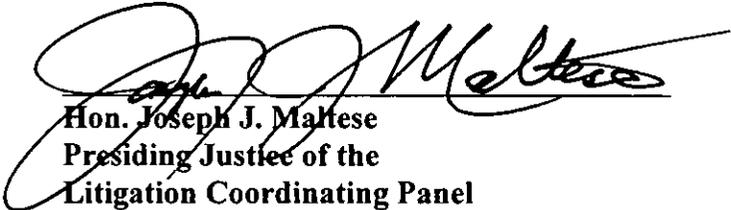
ORDERED, that within 15 days from receipt of a copy of this Order, counsel for the applicants shall serve a copy of this Decision and Order, with notice of entry, upon the Clerk of the New York County Supreme Court, the Clerk of the New York County Civil Court, the Clerk of the Supreme Court of Bronx County and the Clerks for any other counties in the State of New York where actions may be pending, who are directed, upon payment of appropriate fees, if any, to transmit the files in the listed actions that are pending in said Counties to the Clerk of the Supreme Court, New York County; and it is further

ORDERED, that with respect to any additional action that is to be coordinated as provided in the second order provision hereof, upon service of a copy of the Decision and Order of the Panel with notice of entry, together with the affidavit of compliance or the decision of the Panel set forth in Subdivision F of the Procedures of the Panel, upon the Clerk of the Court in which any such additional action is or hereafter shall be pending (other than the Supreme Court, New York County) as provided in Subdivision F, the said Clerk shall forthwith transfer to the Supreme Court, New York County, after the payment of the appropriate fees, if any, the file in any such additional action that is to be coordinated as provided in this Decision and Order and Subdivision F; and it is further

ORDERED, that the Clerk of the Supreme Court, New York County, shall assign a New York County index number, without fee, to any such additional action transferred to that county from another as provided above and such number shall serve as a means of identification and orderly processing of any such case while it remains in New York County for the purpose of coordination.

This constitutes the Decision and Order of the Panel. The Panel, by its Presiding Justice and with their consent, signs this Decision and Order.

Dated: February 29, 2016



Hon. Joseph J. Maltese
Presiding Justice of the
Litigation Coordinating Panel

Justices of the Litigation Coordinating Panel:

Hon. Joseph J. Maltese
Presiding Justice from the Second Department

Hon. Matthew A. Rosenbaum
Associate Justice from the Fourth Department

Hon. Richard T. Aulisi
Associate Justice from the Third Department

Hon. Joan A. Madden
Associate Justice from the First Department

FILED
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COUNTY CLERKS OFFICE
NEW YORK

APPENDIX
SECOND AVENUE GAS EXPLOSION CASES

Cases Pending in Supreme Court, New York County **Judge Currently Assigned**

154160/2015	Chongbang vs. Mah Realty	(Edmead, J., Part 35)
155005/2015	Pizzaia vs. Con Ed.	(Edmead, J., Part 35)
156290/2015	Tower Ins. vs. Con Ed.	
156947/2015	Bk vs. City of NY	
159772/2015	McDonald vs. Kiev Realty	

Cases Pending in Supreme Court, Bronx County

021949/2015	Chen vs. Con Ed.	(Gonzalez, J., Part 10)
023017/2015	Pasternak vs. Con Ed.	(Hunter, J., Part 23)
023723/2015	Galarce vs. Con Ed.	
024763/2015	Lasca vs. Hrynenko	
025655/2015	Kang vs. Hrynenko	
303822/2015	Toledo vs. Mah Realty	

Cases Pending in New York County Civil Court

CV-021604-15	Ruiz vs. Con Ed.	
CV-023173-15	Ruiz vs. Sushi Park	

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