

Bissesar v Time Warner Cable
2020 NY Slip Op 33303(U)
October 7, 2020
Supreme Court, New York County
Docket Number: 161363/2017
Judge: Lisa S. Headley
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**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. LISA S. HEADLEY **PART** **IAS MOTION 22**

Justice

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CHANDRADAI BISSESAR,

Plaintiff,

- v -

TIME WARNER CABLE, DONOVAN CREARY, NARINE
BISSESAR, STACY BISSESAR

Defendant.

-----X

INDEX NO. 161363/2017

MOTION DATE N/A

MOTION SEQ. NO. 002

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 002) 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 48, 49, 50, 51

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

Upon the foregoing documents, it is ORDERED that the motion of defendants, Narine Bissesar and Stacy Bissesar, to consolidate this action for joint discovery and joint trial is granted. It is further ORDERED that plaintiff's cross-motion to amend the caption is granted. First, defendants, Narine Bissesar and Stacy Bissesar, seek to consolidate this action with a related action pending in the Supreme Court, County of New York, bearing Index Number 162570/2019. Co-defendants, Time Warner Entertainment, Co. LP. and Donovan E. Creary, have filed an affirmation in support of the motion to consolidate. Plaintiff Chandradai Bissesar does not oppose consolidation of the actions for joint discovery and trial. Second, plaintiff filed a cross-motion to amend the caption to reflect the proper entity name for co-defendant, Time Warner Cable. No opposition to plaintiff's cross-motion to amend the caption has been filed.

The defendants' motion to consolidate is granted. *CPLR §602(a)* 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". Here, it is undisputed that the actions arise out of the same

motor vehicle accident and involve the same defendants and will involve the same questions of law and fact. No opposition has been filed. Thus, the motion of defendants Narine Bissesar and Stacy Bissesar to consolidate is granted.

The plaintiff's cross-motion to amend the caption is also granted. Pursuant to CPLR 3025(b), "[a] party may amend his 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 to amend pleadings is generally freely granted, absent prejudice and surprise resulting from the delay. *See, Edenwald Contr. Co. v City of New York*, 60 NY2d 957,959 (1983); *Antwerpse Diamantbank N.V. v Nissel*, 27 AD3d 207, 208 (1st Dep't 2006). To find prejudice there must be some indication that a party has been hindered in the preparation of his case or prevented from taking some measure in support of his position. *See, Abdelnabi v NYC Transit Authority*, 273 AD2d 114, 115 (1st Dep't 2000).

Here, plaintiff seeks to amend the summons and verified complaint and to amend the caption to reflect the proper entity name for the defendant Time Warner Cable, which is "TIME WARNER ENTERTAINMENT, CO. LP.," as told to Plaintiff by attorney for defendant "Time Warner." No opposition has been filed, and, thus, no prejudice has been alleged. As such, plaintiff's motion to amend is granted.

Accordingly, it is

ORDERED that defendants' motion to consolidate and plaintiff's cross-motion to amend the caption are granted, and the action Chandradai Bissesar v. Time Warner Entertainment, Co. LP., Donovan E. Creary, Narine Bissesar and Stacy Bissesar, Index No.: 161363/2017 (Action #1), shall be consolidated in this Court with action Stacy Bissesar v. Time Warner Entertainment,

Co. LP., Donovan E. Creary, Index No.: 162570/2019 (Action #2). Consolidation shall take place under Index No.: 161363/2017 and the consolidated action shall bear the following caption:

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

CHANDRADAI BISSESAR,

Plaintiff,

-against-

Index No. 161363/2017

TIME WARNER ENTERTAINMENT, CO. LP.,
DONOVAN E. CREARY, NARINE BISSESAR
and STACY BISSESAR,

Defendants.

STACY BISSESAR,

Plaintiff,

-against-

TIME WARNER ENTERTAINMENT, CO. LP.,
DONOVAN E. CREARY,

Defendants.

And it is further

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

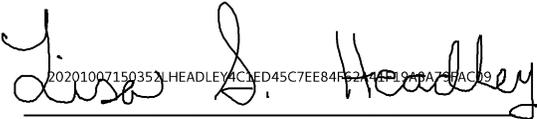
ORDERED that, within 30 days from entry of this order, counsel for movant shall serve a copy of this order with notice of entry upon all parties, on the Clerk of the Court (60 Centre Street, Room 141 B), and the Clerk of the General Clerk's Office (60 Centre Street, Room 119) who shall

consolidate the documents and amend the caption in the actions hereby consolidated and shall mark the court’s records to reflect the consolidation and amendment; and it is further

ORDERED that service of this order upon the County Clerk and the Clerk of the General Clerk’s Office 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 at the address www.nycourts.gov/supctmanh); and it is further

ORDERED that, as applicable and insofar as is practical, the Clerk of this Court shall file the documents being consolidated and amended in the consolidated case file under the Index No.: 161363/2017 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.

This constitutes the Decision/Order of this Court.

<u>10/7/2020</u> DATE	 <small>20201007150352 HEADLEY4CED45C7EE84F52744E188A73FAC09</small> LISA S. HEADLEY, J.S.C.	
CHECK ONE: APPLICATION: CHECK IF APPROPRIATE:	<input type="checkbox"/> CASE DISPOSED <input checked="" type="checkbox"/> GRANTED <input type="checkbox"/> DENIED <input type="checkbox"/> SETTLE ORDER <input type="checkbox"/> INCLUDES TRANSFER/REASSIGN	<input checked="" type="checkbox"/> NON-FINAL DISPOSITION <input type="checkbox"/> GRANTED IN PART <input type="checkbox"/> OTHER <input type="checkbox"/> SUBMIT ORDER <input type="checkbox"/> FIDUCIARY APPOINTMENT <input type="checkbox"/> REFERENCE