

Silverio v Manhattan Oral Facial Surgery LLC

2026 NY Slip Op 31014(U)

March 16, 2026

Supreme Court, New York County

Docket Number: Index No. 805094/2025

Judge: Kathy J. King

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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. KATHY J. KING PART 06

Justice

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INDEX NO. 805094/2025

ANTONIO SILVERIO

MOTION DATE 12/15/2025

Plaintiff,

MOTION SEQ. NO. 001

- v -

MANHATTAN ORAL FACIAL SURGERY LLC,

DECISION + ORDER ON MOTION

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 21, 22, 23, 24, 25 were read on this motion to/for CONSOLIDATE/JOIN FOR TRIAL.

Upon the foregoing documents, Defendant Manhattan Oral Facial Surgery, LLC ("MOFS"), in the instant action, moves, pursuant to CPLR 602(a), for an Order: (1) to consolidate this action with the action entitled Antonio Tomas Silverio v. Austin Wilson, DMD et al, pending in the Supreme Court, New York County, under Index No. 805492/2023, on the grounds that the actions involve common questions of law and fact and consolidation will avoid unnecessary costs and delay; (2) to amend the caption to reflect the consolidation.

Plaintiff does not oppose the motion.

BACKGROUND

Both actions concern allegations of dental malpractice against arising out of the extraction of tooth # 15 as performed by Dr. Austin Wilson ("Dr. Wilson") at MOFS on October 7, 2022.

Plaintiff commenced the action against Dr. Wilson, bearing Index No. 805492/2023, by way of filing a Summons and Complaint on November 28, 2023. Issue was joined with the filing of a Verified Answer by Dr. Wilson.

Plaintiff then commenced the instant action, bearing Index No. 805094/2025, by filing a Summons and Complaint against MOFS on April 2, 2025. MOFS joined issue by way of a Verified Answer on July 3, 2025. On July 29, 2025, Plaintiff served a verified Bill of Particulars as to MOFS, which alleges that MOFS is vicariously liable for the tooth extraction performed by Dr. Wilson.

MOFS now moves for an Order to consolidate this instant action with the action against Dr. Wilson and amend the caption to reflect such consolidation.

Plaintiff does not oppose the requested relief.

DISCUSSION

“Consolidation is generally favored in the interest of judicial economy and ease of decision-making where cases present common questions of law and fact, ‘unless the party opposing the motion demonstrates that a consolidation will prejudice a substantial right’” (*Raboy v McCrory Corp.*, 210 AD2d 145 [1st Dept 1994], quoting *Amtorg Trading Corp. v Broadway & 56th St. Assoc.*, 191 AD2d 212, 213 [1st Dept 1993]).

Here, this action and the earlier-filed action, which both arise from the same medical treatment rendered to the Plaintiff by medical practitioners and providers acting in concert inevitably present common questions of law and fact (*see CPLR 602; DeSilva v Plot Realty, LLC*, 85 AD3d 422 [1st Dept 2011]; *Kern v Shandell, Blitz, Blitz & Bookson*, 58 AD3d 487 [1st Dept 2009]). The Court also notes that the motion is unopposed. Absent a showing of substantial prejudice by the Plaintiff—which has not been made—the interests of justice and judicial economy dictate that these matters be tried together.

Thus, Defendant’s motion to consolidate is granted.

Accordingly, it is hereby

ORDERED that this action shall be fully consolidated for all purposes into the action entitled Antonio Tomas Silverio v. Austin Wilson, DMD et al pending in the Supreme Court, New York County under Index No. 805492/2023; and it is further

ORDERED that the action entitled Antonio Tomas Silverio v. Austin Wilson, DMD et al, pending in the Supreme Court, New York County, under Index No. 805492/2023 is fully consolidated for all purposes into the instant action pending before this Court; and it is further

ORDERED that the consolidated action shall proceed under Antonio Tomas Silverio v. Austin Wilson, DMD et al, New York County Index No. 805492/2023; and it is further

ORDERED that only one note of issue shall be required to be filed in the consolidated action in this Court under Index No. 805492/2023; and it is further

ORDERED that the caption of the consolidated action shall be amended to read as follows:

ANTONIO TOMAS SILVERIO,

Plaintiff,

Index No. 805492/2023

v

AUSTIN WILSON, DMD, DENTAL ORAL SURGERY, and MANHATTAN ORAL FACIAL SURGERY LLC,

Defendants.

and it is further

ORDERED that the Trial Support Office, the New York County Clerk’s Office, and all Court support offices shall amend their records; accordingly, and it is further

ORDERED that within twenty (20) days of the date of this Order, Defendant Manhattan Oral Facial Surgery LLC is to serve a copy of this Order on the Plaintiff and all parties in the action entitled Antonio Tomas Silverio v. Austin Wilson, DMD et al, pending in the Supreme Court, New York County, under Index No. 805492/2023, via first-class certified mail to her/his last known address; and it is further

ORDERED that, within twenty (20) days of the date of this Order, Defendant Manhattan Oral Facial Surgery LLC shall serve a copy of this Order upon the County Clerk and the Clerk of the General Clerk’s Office, which shall be effectuated 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.

3/16/2026
DATE

Kathy King
KATHY KING, 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
APPLICATION:	<input type="checkbox"/> SETTLE ORDER	<input type="checkbox"/> GRANTED IN PART
CHECK IF APPROPRIATE:	<input type="checkbox"/> INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/> SUBMIT ORDER
		<input type="checkbox"/> FIDUCIARY APPOINTMENT
		<input type="checkbox"/> OTHER
		<input type="checkbox"/> REFERENCE