

**STATE OF NEW YORK SUPREME COURT
LITIGATION COORDINATING PANEL**

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

ROBERT JOHNSON, JR.

Plaintiff,

v.

**ADIRONDACK TRANSIT LINES, INC.,
PINE HILL-KINGSTON BUS CORPORATION,
KELVIN S. SHARPE, SR.,
ROBERT TARBELL,
NATIONAL FREIGHT, INC. and
GARRETT F. POWER**

Defendants.

index # 560001118
Sub # 2

**LC Panel Case No. 002/2017
Filed in New York County**

Index No. 2016/6202

**ORDER GRANTING
APPLICATION
TO COORDINATE CASES
PURSUANT TO
22 NYCRR 202.69**

AND OTHER MATTERS LISTED IN THE ATTACHED APPENDIX

FILED

APR - 4 2018

**COUNTY CLERKS OFFICE
NEW YORK**

This application for coordination comes to the Litigation Coordinating Panel at the request of Justice Ann Marie Taddeo of the Seventh Judicial District, who is presiding over the above captioned case filed in the Supreme Court of Monroe County. This case and six other cases were filed in the Supreme Court, four in Erie County and two in Bronx County, which are listed in the Appendix. All of these seven tort cases arise from a common motor vehicle collision between a tractor-trailer truck and a passenger bus on Route 81 South of Syracuse, New York on November 6, 2014.

After Justice Taddeo consulted with counsel for the plaintiffs and the defendants, it appears that in order to streamline the discovery and limit the number of depositions of the same defendants, other parties and relevant witnesses, there is an overwhelming consensus by the attorneys that these seven case should be coordinated before one Supreme Court Justice appointed to coordinate the discovery, pre-trial motions and settlement negotiations pursuant to the Unified Rules for Trial Courts Section 202.69.

The Panel is in receipt of a letter objecting to coordination dated February 12, 2018 from Kenneth Joelson, Esq. of New York County, who represents one of the two Bronx plaintiffs, Dionne Wyatt versus eight defendants in a case he filed in 2015. Unfortunately, that case has been apparently protracted by motion practice, whereby depositions have not been completed. Since no Note of Issue has been filed and it is otherwise not ready for trial, that case will be joined with the other six cases, which will be coordinated before one Justice for all pre-trial discovery, motions and settlement conferences. However, at the option of any plaintiffs' counsel, their case may be returned for trial to the county where it was originally filed, unless it is otherwise resolved. Also, at the plaintiff's option with the consent of the coordinating Justice any case not originally filed in the county of coordination may remain in the county where all of the cases are coordinated for trial.

The Panel, now having considered all of the issues with respect to this Application, including judicial economy, finds that the purposes of Uniform Civil Rules § 202.69 are best

served by granting coordination, with the overwhelming consent of most of the plaintiffs' and most of the defendants' counsel.

The Panel members, having deliberated on this application, have decided that since four of the seven cases are pending in the Erie County Supreme Court, all seven of the currently filed cases and any other cases which may hereafter be filed arising from this same accident shall likewise be coordinated in the Supreme Court of Erie County.

Accordingly, and upon due deliberation, it is hereby:

ORDERED, that the actions set forth above and in the appendix shall be Coordinated pursuant to the Uniform Civil Rules § 202.69 before a Coordinating Justice of Erie county; and it is further

ORDERED, that any actions that allege similar causes of action against the Defendants, that were filed in a Supreme Court of the State of New York, and which remain active, but are not listed in the above caption or the appendix, and any such actions that are filed hereafter shall likewise be Coordinated pursuant to the Uniform Civil Rules § 202.69 in the Supreme Court of Erie County, before a Coordinating Justice of that county; and it is further

ORDERED, that pursuant to the Uniform Civil Rules § 202.69(c)(1) of the State of New York, the Honorable Paula L. Feroletto, the Administrative Judge of the Eighth Judicial District which encompasses the Supreme Court of Erie County, 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 currently assigned in each of the seven actions, the Honorable Paula L. Feroletto, the Administrative Judge of the Eighth Judicial District and the Clerks of the Supreme Court of Bronx County, Erie County and Monroe County; and it is further

ORDERED, that within 15 days of receipt of a copy of this Order, the Clerks of the Supreme Court for Bronx County and Monroe County are directed to transmit the files in the listed actions that are pending in said counties to the Clerk of the Supreme Court of Erie County; and it is further

ORDERED, that with respect to any additional action that is to be Coordinated as provided in the second ordered 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, upon the Clerk of the Court in which any such additional action is or hereafter shall be pending (other than the Supreme Court, County of Erie), said Clerk shall forthwith transfer to the Supreme Court, County of Erie, after the payment of appropriate fees, if any, the file in any such additional action that is to be Coordinated as provided in the Decision and Order in compliance with the Uniform Civil Rules § 202.69; and it is further

ORDERED, that the Clerk of the Supreme Court, County of Erie, shall assign an Erie County index number, without fee, to any such action transferred to that County from another County as provided above and such number shall serve as a means of identification and orderly processing of any such case while it remains in the County of Erie for the purpose of Coordination of pre-trial matters; and it is further

ORDERED, that coordination is for the purpose of pre-trial discovery, pre-trial and summary judgment motions and settlement conferences; and it is further

ORDERED, that after discovery is complete and after a Note of Issue is filed with a Certificate of Readiness for Trial, and after any motions for summary judgement are decided, then, in the event a final disposition of any case cannot be resolved, at the option of any plaintiff, their case may be remitted to the Supreme Court of the county wherein it was originally filed; and it is further

ORDERED, that in the event that any plaintiff whose case was not originally filed in the Supreme Court of Erie County, chooses to have their case tried in Erie County as opposed to the county where their case was originally filed, then in that event the Coordinating Judge must approve of the case remaining in Erie County for trial, or it shall be remitted back to the county from which it was originally filed.

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

Dated: March 16, 2018

Justices of the Panel:

Hon. Joseph J. Maltese,
Hon. Richard T. Aulisi
Hon. Joan A. Madden
Hon. Matthew Rosenbaum

For the Panel:


Hon. Joseph J. Maltese
Presiding Justice

FILED

APR - 4 2018

COUNTY CLERKS OFFICE
NEW YORK

APPENDIX

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

-----X
DIONNE WYATT,

Index No. 23977/2015E

Plaintiff(s),

-against-

PINE HILL-KINGSTON BUS CORPORATION,
TRAILWAYS OF NEW YORK,
ADIRONDACK TRANSIT LINES, INC.,
ADIRONDACK TRAILWAYS, INC.,
KELVIN SHARPE,
ROBERT L. TARBELL,
NATIONAL FREIGHT, INC. and
GARRETT POWERS,

Defendant(s).

-----X
Geofrey Liu, Esq.
Kenneth Joelson, Esq.
Joelson & Rochkind
Attorneys for Plaintiff

Joseph Scarglato, Esq.
Gallo Vitucci Klar
Attorneys for Defendants
Pine Hill-Kingston Bus Corporation,
Trailways of New York,
Adirondack Transit Lines, Inc.,
Adirondack Trailways, Inc. and
Kelvin Sharpe

Jeffrey A. Domoto, Esq.
Raychel Alexandra Maguire, Esq.
Adams, Hanson, Rego, Carlin,
Kaplan & Fishbein
Attorneys for Defendant
Robert L. Tarbell

William J. Cecaice, Esq.
William Charles Firth, Esq.
Carter, Conboy, Case, Blackmore,
Maloney & Laird, P.C.
Attorneys for Defendants
National Freight, Inc. and Garrett Powers

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

-----X
DORRIS WHITE and CLINTON WHITE,
Individually and as husband and wife,

Index No. 42047/2016E

Plaintiff(s),

-against-

ADIRONDACK TRANSIT LINES, INC.,
NATIONAL FREIGHT, INC.,
GREYHOUND LINES, INC.,
PINE HILL-KINGSTON BUS CORPORATION,
KELVIN SHARPE,
GARRETT R. POWER, and
ROBERT TARBELL,

Defendant(s).
-----X

Christian R. Oliver, Esq.
Cellino & Barnes
Attorneys for Plaintiffs

Joseph Scarglato, Esq.
Gallo Vitucci Klar
Attorneys for Defendants
Adirondack Transit Lines, Inc.,
Pine Hill-Kingston Bus Corporation and
Kelvin Sharpe

William J. CeCaire, Esq.
William Charles Firth, Esq.
Carter, Conboy, Case, Blackmore,
Maloney & Laird, P.C.
Attorneys for Defendants
National Freight, Inc. and Garrett Powers

Harold L. Moroknek, Esq.
Angela M. Evangelista, Esq.
Marshall, Dennehey, Warner
Attorneys for Defendant
Greyhound Lines, Inc.

Jeffrey A. Domoto, Esq.
Adams, Hanson, Rego, Carlin,
Kaplan & Fishbein
Attorneys for Defendant
Robert Tarbell

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

-----X
KELVIN SHARPE, SR.,

Index No. 801514/2017

Plaintiff(s),

-against-

ROBERT TARBELL,
NATIONAL FREIGHT, INC.,
GARRETT POWER and
KOHL'S DEPARTMENT STORES, INC.,

Defendant(s).
-----X

Eric Moore Shelton, Esq.
Brown Chiari
Attorneys for Plaintiff

Kevin Jay Griff, Esq.
Adams & Kaplan
Attorneys for Defendant
Robert Tarbell

William Charles Firth, Esq.
Carter, Conboy, Case, Blackmore,
Maloney & Laird, P.C.
Attorneys for Defendants
National Freight, Inc. and Garrett Power

Troy Saxton Flascher, Esq.
Goldberg Segalla, LLP
Attorneys for Defendant
Kohl's Department Stores, Inc.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

-----X
MATILDE FAUSTINO and
EVANGELINE MALABUNGA,

Index No. 810574/2017

Plaintiff(s),

-against-

KELVIN SHARPE,
PINE HILL-KINGSTON BUS CORP.,
GARRETT E. POWER and
NATIONAL FREIGHT, INC.,

Defendant(s).

-----X
Shawn M. Alfano, Esq.
Daniel Buttafuoco & Assoc., PLLC
Attorneys for Plaintiffs

George Mackey, Esq.
Barclay Damon, LLP
Attorneys for Defendants
Kelvin Sharpe and Pine Hill-Kingston Bus Corp.

William J. DeCaire, Esq.
William Charles Firth, Esq.
Carter, Conboy, Case, Blackmore,
Maloney & Laird, P.C.
Attorneys for Defendants
Garrett E. Power and National Freight, Inc.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

-----X
TRACIE J. ISAAC,

Plaintiff(s),

Index No. 815760/2017

-against-

ROBERT L. TARBELL,
KELVIN SHARPE,
PINE HILL-KINGSTON BUS CORP.,
ADIRONDACK TRAILWAYS, INC.,
ADIRONDACK TRANSIT LINES, INC.,
GREYHOUND LINES, INC.,
GARRETT F. POWER and
NATIONAL FREIGHT, INC.,

Defendant(s).

-----X
Andrew David Fanizzi, Esq.
Fanizzi & Barr, P.C.
Attorneys for Plaintiff

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

-----X
EDITH SMITH,

Index No. 815771/2017

Plaintiff(s),

-against-

ROBERT TARBELL,
NATIONAL FREIGHT, INC.,
GARRETT POWER,
KOHL'S DEPARTMENT STORES, INC.,
PINE HILL-KINGSTON BUS CORPORATION,
TRAILWAYS OF NEW YORK,
ADIRONDACK TRANSIT LINES, INC.,
ADIRONDACK TRAILWAYS, INC. and
KEVIN SHARPE SR.,

Defendant(s).
-----X

David W. Polak, Esq.
David W. Polak, Attorney at Law, P.C.
Attorneys for Plaintiff

FILED
APR - 4 2018
COUNTY CLERKS OFFICE
NEW YORK

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF MONROE

-----X
ROBERT JOHNSON, JR.,

Index No. 2016/6202

Plaintiff(s),

-against-

ADIRONDACK TRANSIT LINES, INC.,
PINE HILL-KINGSTON BUS CORPORATION,
KEVIN S. SHARPE, SR.,
ROBERT TARBELL,
NATIONAL FREIGHT, INC. and
GARRETT F. POWER,

Defendant(s).
-----X

K. John Wright, Esq.
Cellino & Barnes, P.C.
Attorneys for Plaintiff

George G. Mackey, Esq.
Barclay Damon, LLP
Attorneys for Defendants
Adirondack Transit Lines, Inc. and
Kevin S. Sharpe, Sr.

Joseph Scarglato, Esq.
Gallo Vitucci Klar
Attorneys for Defendant
Pine Hill-Kingston Bus Corporation

Kevin J. Graff, Esq.
Adams & Kaplan
Attorneys for Defendant
Robert Tarbell

William C. Firth, Esq.
Carter Conboy, Case, Blackmore,
Maloney & Laird, P.C.
Attorneys for Defendants
National Freight, Inc. and Garrett F. Power

FILED

APR - 4 2018

COUNTY CLERKS OFFICE
NEW YORK

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF MONROE

ROBERT JOHNSON, JR.,

Plaintiff,

-against-

ADIRONDACK TRANSIT LINES, INC.,
PINE HILL-KINGSTON BUS CORPORATION,
KELVIN S. SHARPE, SR.,
ROBERT TARBELL,
NATIONAL FREIGHT, INC. and
GARRETT F. POWER,

Defendants.

LC Panel Case No. 002/2017
Filed in New York County

Index No. 2016/6202

ORDER DESIGNATING
COORDINATING JUSTICE

Pursuant to the authority vested in me, I make the following order:

ORDERED, that in accordance with the Uniform Rules for the Trial Court Section 202.69(c)(1), and in furtherance of the Order of the Litigation Coordinating Panel issued by Presiding Justice Joseph J. Maltese dated March 16, 2018, whereby this case and six other cases filed in Erie and Bronx Counties as outlined in the Appendix to this Order, and any other similar cases now or hereafter filed in any other county of this state, arising out of the same motor vehicle accident of November 6, 2014, which is the subject matter of this pre-trial coordination, shall be transferred for coordination to the Erie County Supreme Court, and that the

Honorable _____
of the Supreme Court, Erie County, located at _____,

telephone number _____, is designated as the Coordinating Justice for all actions pending in any county of the New York Supreme Court.

ENTER,

Dated:

Hon. Paula L. Feroletto
Administrative Judge
Eight Judicial District

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF MONROE

ROBERT JOHNSON, JR.,

Plaintiff,

-against-

ADIRONDACK TRANSIT LINES, INC.,
PINE HILL-KINGSTON BUS CORPORATION,
KELVIN S. SHARPE, SR.,
ROBERT TARBELL,
NATIONAL FREIGHT, INC. and
GARRETT F. POWER,

Defendants.

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INDEX # 56000118 sub # 2

LC Panel Case No. 002/2017
Filed in New York County

Index No. 2016/6202

ORDER DESIGNATING
COORDINATING JUSTICE

Pursuant to the authority vested in me, I make the following order:

ORDERED, that in accordance with the Uniform Rules for the Trial Court Section 202.69(c)(1), and in furtherance of the Order of the Litigation Coordinating Panel issued by Presiding Justice Joseph J. Maltese dated March 16, 2018, whereby this case and six other cases filed in Erie and Bronx Counties as outlined in the Appendix to this Order, and any other similar cases now or hereafter filed in any other county of this state, arising out of the same motor vehicle accident of November 6, 2014, which is the subject matter of this pre-trial coordination, shall be transferred for coordination to the Erie County Supreme Court, and that the

Honorable Mark Crisanti
of the Supreme Court, Erie County, located at 25 Delaware Ave.

Buffalo, NY 14202
telephone number 716-845-7260 is designated as the Coordinating Justice for all actions pending in any county of the New York Supreme Court.

ENTER,

Dated: MARCH 20, 2018

Paula L. Feroletto
Hon. Paula L. Feroletto
Administrative Judge
Eight Judicial District