

Fernandez v Shung Chiu

2011 NY Slip Op 33276(U)

July 6, 2011

Supreme Court, Queens County

Docket Number: 16830/09

Judge: Orin R. Kitzes

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Short Form Order

NEW YORK SUPREME COURT-QUEENS COUNTY

PRESENT: HON. ORIN R. KITZES
Justice

PART 17

-----X
JUAN FERNANDEZ and ANGELA FERNANDEZ ,

Plaintiff,

-against-

Index No. 16830/09
Motion Date: 6/29/11
Motion Cal. No: 18

SHUNG CHIU and IVY TOURS, INC.,
JIAN WU AND KINGLY COACH CO., INC.,

Defendants.

-----X

The following papers numbered 1 to 11 read on this motion by defendants **KINGLY COACH, INC. and JIAN WU** for an order directing that the action, under Index No. 9745/10, pending in Supreme Court, Queens County and the actions under Index No. 1392/11 and 8507/11, both pending in Supreme Court, Kings County, be transferred to Supreme Court, Queens County, to be consolidated for joint trial with the action, under Index No. 16830/09 and the other actions previously joined for trial.

PAPERS
NUMBERED

Notice of Motion-Affirmation-Exhibits

1 - 4

Upon the foregoing papers, this motion by defendants **KINGLY COACH, INC. and JIAN WU** for an order directing that the action under Index No. 9745/10, pending in Supreme Court, Queens County, and the actions under Index No.1392/11 and 8507/11, both pending in Supreme Court, Kings County, be transferred to Supreme Court, Queens County, and consolidated for joint trial with the instant action, under Index No. 16830/09 (“Action No. 1”) and the other actions previously joined for trial, is granted, without opposition, to the following extent:

In an Order, dated November 20, 2009, this Court directed that a case pending in Supreme Court, Kings County, under Index No. 20569/09, now known as Index No. 7800/10 (“Action No. 2”), was to be transferred to the Supreme Court, Queens County and joined for trial with Action No. 1.

In an Order, dated December 18, 2009, this Court directed that two cases pending in Supreme Court, Kings County, one under Index No. 26130/09, now known as Index No. 7803/10 (“Action No. 3”) and the other under Index No. 26991/09, now known as Index No. 7808/10 (“Action No. 4”) were to be transferred to Supreme Court, Queens County, and consolidated for joint trial with Action Nos. 1 and 2.

In an Order, dated February 1, 2010, this Court directed that the action, under Index No. 29761/09 (“Action No. 5”), was to be consolidated for joint trial with the previously consolidated actions designated as Action Nos. 1, 2, 3 and 4.

In an Order, dated June 8, 2010, this Court directed that two more Kings County actions

under Index No.18723/09 (“Action No. 6) and Index No. 21393/09 (“Action No. 7) were to be transferred to Supreme Court, Queens County, and be consolidated for joint trial with the Action No. 1 and all the other previously consolidated actions designated as Actions Nos. 2, 3, 4 and 5.

In an order dated January 6, 2011, this Court directed that another Kings County action, under Index No. 17324/10, now known as Index No. 7974/11 (“Action No. 8”) was to be transferred to Supreme Court, Queens County, and be consolidated for joint trial with all the other previously consolidated actions designated as Actions Nos. 1, 2, 3, 4, 5, 6 and 7.

Under Index No. 23609/10, defendants Ivy Tours Inc. and Shung Chiu’s filed a Notice of Motion to consolidate the action under Index No. 23609/10 (“Action No. 9”) with Action No. 4, along with the seven other known actions. This case was assigned to Justice Howard Lane and in a decision, dated April 4, 2011, defendants’ motion was granted, without opposition, to the extent that Action No. 9 would be tried jointly in this court with Action Nos. 1, 2, 3, 4, 5, 6, 7, 8. All of the above Orders directed that each of these actions would have a separate Index Number, Request for Judicial Intervention, and Note of Issue filed for each action.

In the instant motion, defendants Kingly Coach, Inc. and Jian Wu request that the action under Index No. 9745/10 (“Action No. 10”), pending in Supreme Court, Queens County, and two additional actions, under Index No.1392/11 (“Action No. 11”) and Index No. 8507/11 (“Action No. 12”), both pending in Supreme Court, Kings County, be transferred to Supreme Court, Queens County, and be consolidated for joint trial with Action No. 1 and the “seven other actions previously joined for trial by this Court’s order entered in the Queens County Clerk’s Office on January 13, 2011.”

The Court notes that nine actions have been previously been consolidated for joint trial as delineated above.

ORDERED that the action, under Index No. 9745/10 (“Action No. 10”), shall be tried jointly in this Court with Actions Nos. 1, 2, 3, 4,5, 6, 7, 8 and 9 and a separate Index Number, Request for Judicial Intervention (RJI) and Note of Issue shall be filed for this action; and it is further

ORDERED that the actions, under Index No. 1392/11 (“Action No. 11”) and Index No. 8507/11 (“Action No. 12”), both now pending in Supreme Court, Kings County, are to be transferred to the Supreme Court, Queens County, and upon transfer, Action Nos. 11 and 12 shall be tried jointly in this Court with Actions Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10, and separate Index Numbers, Requests for Judicial Intervention (RJI) and Notes of Issue shall be filed for each of these actions; and it is further

ORDERED, that the Clerk of the Supreme Court, Kings County, upon being served with a copy of this Order with Notice of Entry and payment of any required fees, is directed to transfer all papers filed in his office in Action Nos. 11 and 12 to the Clerk of Supreme Court, Queens County; and it is further

ORDERED, the Title of Actions combined for Joint Trial shall be:

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

-----X
JUAN FERNANDEZ and ANGELA FERNANDEZ,

Plaintiff,

-against-

SHUNG CHIU and IVY TOURS, INC.,
JIAN WU AND KINGLY COACH CO., INC.,

Defendants.

ACTION NO. 1
Index No. 16830/09

-----X
HONG XIANG ZHOU, PEI LIN ZHENG,
SHANG MING CHEN, LIANG DONG,
ZI HE ZHENG, ZHEN HUA YU, ZONG
CHEN ZOU and YI ZHU LIN,

Plaintiffs,

-against-

KINGLY COACH, INC., JIAN KANG WU, IVY
TOURS INC. and SHUNG LOK CHIU,

Defendants.

ACTION NO. 2
Index No. 7800/10

-----X
QING HUA MAO,

Plaintiff,

-against-

KINGLY COACH, INC. and JIAN KANG WU,

Defendants.

ACTION NO. 3
Index No. 7803/10

-----X
RU HUI FAN and AL YUN GAO,

Plaintiffs,

-against-

KINGLY COACH, INC. and JIAN WU,

Defendants.

ACTION NO. 4
Index No. 7808/10

-----X
CHIN CHIU, XIU CUI, GUO SONG CHEN
and GUO GUANG BAO,

Plaintiffs,

-against-

KINGLY COACH, INC., JIAN WU,
IVY TOURS INC. and SHUNG CHIU,

Defendants.

ACTION NO. 5
Index No. 29761/09

-----X

-----X
PUSHPA JETHANI,
Plaintiff,
-against-
KINGLY COACH CO., INC. and JIAN WU,
Defendants.

Kings County
ACTION NO. 6
“Index No. To Be Assigned”

-----X
JARONG LUO, XIN HUA QIAN, AIMIN CHEN,
Plaintiffs,
-against-
KINGLY COACH CO., INC., JIAN KANG WU,
IVY TOURS INC., and SHUNG LOK CHIU,
Defendants.

Kings County
ACTION NO. 7
“Index No. To Be Assigned”

-----X
ELIZABETH MELINDA,
Plaintiff,
-against-
KINGLY COACH, INC., JIAN WU,
IVY TOURS INC., and SHUNG CHIU,
Defendants.

ACTION NO. 8
Index No. 7974/11

-----X
RU HUI FAN and AI YUN GAO,
Plaintiffs,
-against-
IVY TOURS INC., and SHUNG CHIU,
Defendants.

ACTION NO. 9
Index No. 23609/10

-----X
SUN KEE LEE,
Plaintiff,
-against-
SHUNG CHIU, JIAN WU, IVY TOURS INC.,
KINGLY COACH, INC., XYZ CORPORATION
and ABC CORPORATION,
Defendants

ACTION NO. 10
Index No. 9745/10

-----X

-----X

JUNG JA LEE,

Plaintiff,

-against-

**KINGLY COACH, INC. and JIAN KANG WU,
IVY TOURS INC. and SUNG LOK CHIU,**

Defendants.

**Kings County
ACTION NO. 11
“Index No. To Be Assigned”**

-----X

**KUOK HANG LEONG, ZHAO-ZHANG WANG,
WEN XIU LI, MILEDY PEREZ, WILLIAM E.
VARGAS, TIEN HSIEN CHOW and YAN JIANG,**

Plaintiffs,

-against-

**KINGLY COACH, INC. and JIAN KANGWU,
IVY TOURS INC. And SHUNG CHIU,**

Defendants.

**Kings County
ACTION NO. 12
“Index No. To Be Assigned”**

-----X

and it is further;

ORDERED, that a copy of this Order with Notice of Entry be served on all parties to the actions combined and the Clerk of Queens County, and at the time of filing Notes of Issue.

Dated: July 6, 2011

E N T E R

ORIN R. KITZES, J.S.C.