

**State Farm Fire & Cas. Co. v ABM Mgt. Corp.**

2012 NY Slip Op 33232(U)

January 12, 2012

Sup Ct, Suffolk County

Docket Number: 29346/2010

Judge: Joseph Farneti

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SHORT FORM ORDER

INDEX NO. 29346/2010

SUPREME COURT - STATE OF NEW YORK  
I.A.S. TERM, PART 37 - SUFFOLK COUNTY

PRESENT:

**HON. JOSEPH FARNETI**  
**Acting Justice Supreme Court**

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STATE FARM FIRE AND CASUALTY  
COMPANY a/s/o AMY YEUNG, RICHARD  
ANGELLO and JOHN PRISCO,

Plaintiff,

-against-

ABM MANAGEMENT CORP., VILLAGE IN  
THE WOODS OWNERS CORP., UNITED  
SECURITY ALARM SERVICES INC. and  
SUFFOLK COUNTY WATER AUTHORITY,

Defendants.

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ORIG. RETURN DATE: MAY 16, 2011  
FINAL SUBMISSION DATE: JUNE 23, 2011  
MTN. SEQ. #: 001  
MOTION: MG

ORIG. RETURN DATE: MAY 16, 2011  
FINAL SUBMISSION DATE: JUNE 23, 2011  
MTN. SEQ. #: 002  
CROSS-MOTION: XMD

ORIG. RETURN DATE: MAY 16, 2011  
FINAL SUBMISSION DATE: JUNE 23, 2011  
MTN. SEQ. #: 003  
CROSS-MOTION: XMG

ORIG. RETURN DATE: MAY 16, 2011  
FINAL SUBMISSION DATE: JUNE 23, 2011  
MTN. SEQ. #: 004  
CROSS-MOTION: XMG

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**PLAINTIFF:**

ALFRED YEUNG as Administrator  
of the Estate of AMY M. YEUNG, Deceased,  
and ALFRED YEUNG, Individually  
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Upon the following papers numbered 1 to 16 read on these motions and cross-motions TO CONSOLIDATE.  
 Notice of Motion and supporting papers 1-3; Notice of Cross-motion and supporting papers 4-6;  
 Notice of Cross-motion and supporting papers 7-9; Memorandum of Law 10; Notice of Cross-motion and supporting papers 11-13; Memorandum of Law 14; Affirmation in Opposition and supporting papers 15, 16; it is,

**ORDERED** that this motion (seq. #001) by defendant, UNITED SECURITY ALARM SERVICES INC., for an Order, pursuant to CPLR 602 (a), consolidating the above-captioned action with another action currently pending in this Part under Index No. 9541/2011, entitled *Allstate Indemnity Company as subrogee of Kim Hickey and Allstate Insurance Company as subrogee of Robert Cook and Karen Jacobson v. ABM Management Corp., Village in the Woods Owners Corp., United Security Alarm Services, Inc., Suffolk County Water Authority and Alfred Yeung, as Administrator of the Estate of Amy Yeung, Deceased*, for purposes of joint discovery and joint trial, is hereby **GRANTED** pursuant to a Stipulation of the parties dated June 30, 2011 and So-Ordered by this Court on even date; and it is further

**ORDERED** that this cross-motion (seq. #002) by defendant, SUFFOLK COUNTY WATER AUTHORITY, for an Order, pursuant to CPLR 602 (a), consolidating the above-captioned action with two other actions currently pending in this Part, to wit: under Index No. 9541/2011, entitled *Allstate Indemnity Company as subrogee of Kim Hickey and Allstate Insurance Company as subrogee of Robert Cook and Karen Jacobson v. ABM Management Corp.*,

*Village in the Woods Owners Corp., United Security Alarm Services, Inc., Suffolk County Water Authority and Alfred Yeung, as Administrator of the Estate of Amy Yeung, Deceased, and under Index No. 15227/2010, entitled Alfred Yeung as Administrator of the Estate of Amy M. Yeung, Deceased, and Alfred Yeung, Individually v. County of Suffolk, Suffolk County Water Authority, Town of Brookhaven, Village in the Woods Owners Corp. and ABM Management Corp.,* for purposes of joint discovery and/or joint trial, is hereby **DENIED**. The Court has received opposition to this application. Although these three actions have common parties and questions of fact arising from a fire that occurred on February 2, 2009, at residential units located on Redwood Court in Selden, New York, the first two actions are subrogation actions seeking to recover for property damage, while the third action seeks to recover for wrongful death. Therefore, the Court finds that the questions of law differ with respect to the wrongful death action (see *Beerman v Morhaim*, 17 AD3d 302 [2005]; *Heydt Contracting Corp. v Tishman Constr. Corp.*, 163 AD2d 196 [1990]; *Screen Gems-Columbia Music v Hansen Publs.*, 42 AD2d 897 [1973], *affd* 35 NY2d 885 [1974]); and it is further

**ORDERED** that this cross-motion (seq. #003) by defendants, ABM MANAGEMENT CORP. and VILLAGE IN THE WOODS OWNERS CORP., for an Order, pursuant to CPLR 602 (a), consolidating the above-captioned action with another action currently pending in this Part under Index No. 9541/2011, entitled *Allstate Indemnity Company as subrogee of Kim Hickey and Allstate Insurance Company as subrogee of Robert Cook and Karen Jacobson v. ABM Management Corp., Village in the Woods Owners Corp., United Security Alarm Services, Inc., Suffolk County Water Authority and Alfred Yeung, as Administrator of the Estate of Amy Yeung, Deceased*, for purposes of joint discovery and joint trial, is hereby **GRANTED** pursuant to a Stipulation of the parties dated June 30, 2011 and So-Ordered by this Court on even date; and it is further

**ORDERED** that this cross-motion (seq. #004) by defendants, ABM MANAGEMENT CORP. and VILLAGE IN THE WOODS OWNERS CORP., for an Order, pursuant to CPLR 602 (a), consolidating the above-captioned action with another action currently pending in this Part under Index No. 9541/2011, entitled *Allstate Indemnity Company as subrogee of Kim Hickey and Allstate Insurance Company as subrogee of Robert Cook and Karen Jacobson v. ABM Management Corp., Village in the Woods Owners Corp., United Security Alarm Services, Inc., Suffolk County Water Authority and Alfred Yeung, as Administrator of the Estate of Amy Yeung, Deceased*, for purposes of joint discovery and joint trial, is hereby

**GRANTED** pursuant to a Stipulation of the parties dated June 30, 2011 and So-Ordered by this Court on even date.

The foregoing constitutes the decision and Order of the Court.

Dated: January 12, 2012

  
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HON. JOSEPH FARNETI  
Acting Justice Supreme Court

\_\_\_\_\_ FINAL DISPOSITION

  X   NON-FINAL DISPOSITION