

Hoyos v Port Auth. of N.Y. & N.J.
2013 NY Slip Op 33615(U)
December 19, 2013
Sup Ct, Queens County
Docket Number: 703301/12
Judge: Bernice D. Siegal
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Short Form Order

ORIGINAL

NEW YORK STATE SUPREME COURT – QUEENS COUNTY
Present: HONORABLE BERNICE D. SIEGAL IAS TERM, PART 19
Justice

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Roxana Hoyos and Robert Hoyos,

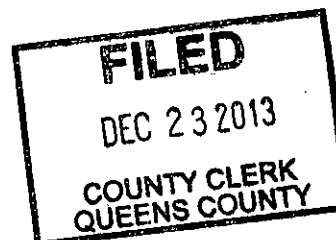
Plaintiffs,

-against-

Port Authority of New York and New Jersey,
Delta Air Lines, Inc., and LaGuardia Airport,

Defendants.
-----X

Index No.: 703301/12
Motion Date: 10/21/13
Motion Cal. No.: 60
Motion Seq. No.: 1



The following papers numbered 1 to 4 read on this motion for an order pursuant to CPLR §602, consolidating for all purpose the instant action ("Action #1") with the proceeding known as "Hoyos v. Triangle Services, Inc., and Maintech Acquisition, LLC" and bearing Index No.: 703029/2013 ("Action # 2"), amending the caption to reflect the consolidation, and deeming the consolidated action to continue under Index Number 703301/2012 with venue in Queens County; (2) If the consolidation of Action #1 and #2 sought above is denied, then in the alternative consolidating Actions #1 and #2 to the extent that they should be jointly tried, amending the caption to reflect the consolidation, and deeming the consolidated action to have Index Number 703301/2012 with venue in Queens County; and (3) scheduling a conference for the consolidated action so that a discovery schedule covering all the parties can be put in place.

PAPERS
NUMBERED
1 - 4

Notice of Motion - Affidavits-Exhibits.....

Upon the foregoing papers, it is hereby ordered that the motion is resolved as follows:

Motion by attorney for plaintiffs Roxana Hoyos and Roger Hoyos for an order pursuant to CPLR §602(a) joining or consolidating, for all purposes, the within action with the proceeding

known as Hoyos v Triangle Services, Inc, and Maintech Acquisitions, LLC bearing Index No. 703029/2013 ("Action No. 2), as both actions involve common questions of law and fact, is granted, without opposition.

The above entitled actions were brought to recover damages for personal injuries allegedly sustained on January 20, 2012. Plaintiff commenced the within action on December 21, 2012. A preliminary conference was held on May 2, 2012 under Action No. 1. On July 30, 2013, Plaintiff filed Action NO. 2 (703029/2013).

"Consolidation is addressed to the sound discretion of the trial court and, absent a showing of substantial prejudice by the party opposing the same, is proper where there are common questions of law and fact." (*Best Price Jewelers. Com, Inc. v. Internet Data Storage*, 51 A.D.3d 839 [2nd Dept. 2008].) Absent a showing of prejudice to a substantial right by a party opposing the motion, consolidation should be granted where common questions of law or fact exist." (*Gadelov v. Shure*, 274 A.D.2d 375 [2nd Dept. 2000].) "Consolidation is appropriate where it will avoid unnecessary duplication of trials, save unnecessary costs and expense, and prevent an injustice which would result from divergent decisions based on the same facts (citations omitted)." (*Viafax Corp. v. Citicorp Leasing, Inc.*, 54 A.D.3d 846 [2nd Dept. 2008].) Inasmuch as this action and the second action both arise from the same incident, consolidation of the actions is warranted, and the motion therefore is granted, without opposition. Accordingly, it hereby is

ORDERED, that the aforementioned actions shall be tried jointly in this Court under Index No. 703301/2012; and it is further

ORDERED, that the title of the actions combined for trial shall be:

-----X
Roxana Hoyos and Robert Hoyos,

Index No.: 703301/12

Plaintiffs,

1

-against-

Port Authority of New York and New Jersey,
Delta Air Lines, Inc., LaGuardia Airport, Triangle Services
Inc., and Maintech Acquisition, LLC

Defendants.
-----X

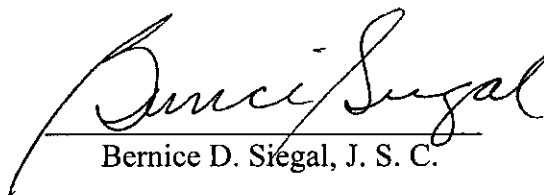
and it is further

ORDERED, that the parties are directed to contact the Preliminary Conference Part to address any outstanding discovery; and it is further

ORDERED, that a copy of this order with notice of entry shall be served on all parties to the actions combined, the clerk of Queens County and, at the time of the filing of a Note of Issue, on the Clerk of the Trial Term Office.

Dated:

Dec 19, 2013


Bernice D. Siegal, J. S. C.