

Figueroa-Fontalvo v Tishman Constr. Corp. of N.Y.
2017 NY Slip Op 31860(U)
September 5, 2017
Supreme Court, New York County
Docket Number: 155263/15
Judge: Barbara Jaffe
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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK : IAS PART 12

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ALLAN FIGUEROA-FONTALVO,

Index No. 155263/15

Plaintiff,

Mot. seq. no. 003

-against-

DECISION AND ORDER

TISHMAN CONSTRUCTION CORPORATION OF NEW
YORK, 605 WEST 42nd LLC, 605 WEST 42nd OWNER LLC,
605 WEST 42nd DEVELOPMENT MANAGER, LLC,

Defendants.

-----X
TISHMAN CONSTRUCTION CORPORATION OF NEW
YORK, 605 WEST 42nd LLC, 605 WEST 42nd OWNER LLC,

Third-Party Plaintiffs,

-against-

PHOEBE HACKING CORP.,

Third-Party Defendant.

-----X
TISHMAN CONSTRUCTION CORPORATION OF NEW
YORK, 605 WEST 42nd LLC, 605 WEST 42nd OWNER LLC,

Second Third-Party Plaintiffs,

-against-

REGAL USA CONSTRUCTION, INC.,

Second Third-Party Defendant.

-----X
BARBARA JAFFE, J.:

For third-party defendant:

Cynthia Hung, Esq.
Baker, McEvoy, Morrissey & Moskovits, P.C.
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Brooklyn, NY 11201
212-857-8230

By notice of motion, submitted on default, third-party defendant moves pursuant to CPLR 602 for an order consolidating this action with a related action commenced in this court by plaintiff against other defendants. In both actions, plaintiff seeks damages for injuries resulting from an accident in which, while he was performing work for the defendants in this action pursuant to the labor law, he was struck by a motor vehicle driven and operated by the defendants in the other action. Thus, in this action, he asserts claims under the labor law, while in the other action, he asserts personal injury claims.

As the two actions arise out of the same accident and involve all of the same parties except one that is only in the earlier action, the motion is meritorious. While normally this action would be consolidated with the related action under that action's index number, in which the earlier request for judicial intervention was filed, as the other action is assigned to a dedicated motor vehicle part, the actions must be consolidated here instead. Accordingly, it is hereby

ORDERED, that the motion is granted and the above-captioned action is consolidated in this Court with *Allan Figueroa-Fontalvo v Phoebe Hacking Corp. & Joseph Aggrey*, Index No. 157616/14 under New York County Index No. 155263/2015, and the consolidated action shall bear the following caption:

ALLAN FIGUEROA-FONTALVO,

Plaintiff,

-against-

TISHMAN CONSTRUCTION CORPORATION OF NEW YORK, 605 WEST 42nd LLC, 605 WEST 42nd OWNER LLC, 605 WEST 42nd DEVELOPMENT MANAGER, LLC, PHOEBE HACKING CORP., and JOSEPH AGGREY,
Defendants.

-----X
TISHMAN CONSTRUCTION CORPORATION OF NEW YORK, 605 WEST 42nd LLC, and 605 WEST 42nd OWNER LLC,

Third-Party Plaintiffs,

-against-

PHOEBE HACKING CORP.,

Third-Party Defendant.

-----X
TISHMAN CONSTRUCTION CORPORATION OF NEW YORK, 605 WEST 42nd LLC, and 605 WEST 42nd OWNER LLC,

Second Third-Party Plaintiffs,

-against-

REGAL USA CONSTRUCTION, INC.,

Second Third-Party Defendant.

It is further

ORDERED, that the pleadings in the action hereby consolidated shall stand as the pleadings in the consolidated action; it is further

ORDERED, that upon service of a copy of this order with notice of entry upon the New York County Clerk pursuant to the e-filing protocol, the Clerk shall consolidate the papers e-filed in the actions hereby consolidated and shall mark his records to reflect such consolidation; it is further

ORDERED, that a copy of this order with notice of entry shall also be served upon the Clerk of the General Clerk's Office for Trial Support, pursuant to the e-filing protocol, and said Clerk is directed to mark the court's records to reflect the consolidation; and it is further

ORDERED, that the parties in the consolidated action shall appear for the previously-scheduled compliance conference on December 6, 2017 at 2:15 pm at 60 Centre Street, Room 341, New York, New York.

ENTER:



Barbara Jaffe, JSC

DATED: September 5, 2017
New York, New York