

<b>Blasen v Mid City Sec. Servs.</b>
2017 NY Slip Op 31941(U)
September 12, 2017
Supreme Court, New York County
Docket Number: 150332/2017
Judge: Robert D. Kalish
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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: Hon. Robert D. Kalish
Justice

PART 29

Gwen Blasen

INDEX NO. 150332/2017

Plaintiff

SEQ NO. 001

- v -

Mid City Security Services, et al.

Defendant

The following papers, numbered 1-2 were read on the Defendant Mid City Security Services Inc.'s motion to consolidate and the Plaintiff's cross-motion to consolidate.

Defendant Mid City Security Services Inc.'s motion to consolidate - Affirmation - Exhibits - Memorandums of Law

No(s). 1

Plaintiff's cross-motion to consolidate - Affirmation - Exhibits - Memorandums of

No(s). 2

Upon the foregoing submitted papers, the Defendant Mid City Security Services Inc.'s ("Mid City") motion to consolidate is denied and the Plaintiff's cross-motion to consolidate is granted as follows:

In the underlying personal injury action, the Plaintiff alleges that on or about January 11, 2014 she was caused to slip and fall on the elevator bank hallway located on the first floor of 375 South End Avenue in New York County. The Plaintiff alleges that the injuries she sustained in connection with said fall arose from the Defendants' negligence as the owner and/or managers and/or agents of the owners/managers of said building.

The Plaintiff commenced the underlying action by service of a summons and complaint on or about January 11, 2017 under index number 150332/2017. Mid City served an answer to the complaint on or about May 22, 2017. The Plaintiff commenced two prior actions under index numbers 150281/2015 and 154636/2016 stemming from the same underlying alleged accident as the instant action and including substantially similar allegations. By so-ordered stipulation dated September 12, 2016, the parties to the prior actions under index numbers 150281/2015 and 154636/2016 agreed to the consolidation of said actions under index number 150281/2015.

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE FOR THE FOLLOWING REASON(S):

Mid City now moves to consolidate the prior consolidated action under index number 150281/2015 with the underlying action.

The Plaintiff also cross-moves for consolidation. However, Plaintiff partially opposes Mid City's motion to consolidate on the following basis:

- Mid City did not serve the Defendants in the prior consolidated action under index number 150281/2015 with Mid city's instant motion to consolidate;
- Mid City requested that the action be consolidated under index number 150332/2017, which is the later action;
- Mid City's proposed caption for the consolidated action omits Gateway Plaza MGMT Corp. And itself from the caption, but incorrectly includes a non-existent Defendant 'Security Services, Inc.'

Mid City has not submitted any papers in opposition to the Plaintiff's cross-motion for consolidation. Further, none of the Defendants in the prior consolidated action (under index number 150281/2015) have opposed the Plaintiff's cross-motion to consolidate.

CPLR 602(a) reads as follows:

§ 602. Consolidation

(a) Generally. When actions involving a common question of law or fact are pending before a court, the court, upon motion, may order a joint trial of any or all the matters in issue, may order the actions consolidated, and may make such other orders concerning proceedings therein as may tend to avoid unnecessary costs or delay.

The Court finds that the action under index number 150281/2015 and the instant action under index number 150332/2017 involve common questions of law and fact, and accordingly the instant cross-motion is granted.

**CONCLUSION**

Accordingly, upon review of the submitted papers, it is

ORDERED that Mid City motion is denied and the Plaintiff's cross-motion to consolidate the instant action, under index number 150332/2017, into the action under index number 150281/2015 is granted; and it is hereby

ORDERED that the instant action under index number 150332/2017 and the underlying action under index number 150281/2015 shall be consolidated under index number 150281/2015 for all purposes; and it is further

ORDERED that the new caption in the consolidated action shall read as follows:

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**Gwen Blasen**

**Plaintiff**

**INDEX NO. 150332/2017**

**- v -**

**MID CITY SECURITY SERVICES. INC..  
MID CITY SECURITY SERVICE. INC..  
LEFRAK ESTATES L.P., GATEWAY  
RESIDENTIAL MANAGEMENT LLC,  
MARINA TOWERS ASSOCIATES L .P.,  
LEFRAK ORGANIZATION, INC.,  
BATTERY PARK CITY AUTHORITY.  
MARINA BATTERY PARK, INC., GATEWAY  
PAYROLL LLC, GATEWAY PLAZA  
MANAGEMENT CORP., GATEWAY PLAZA  
MGMT CORP., SPARTAN SECURITY  
SERVICES, INC., and  
JOHN DOE(S) 1 THROUGH 10 being  
fictitious name(s) representing the  
entity/ entities and/or individual(s) which  
/who had an operational, controlling,  
inspecting, supervisory, managerial,  
contractual, janitorial, observational,  
security and/or ownership interest(s) in the  
premises known as 375 South End Avenue,  
New York, New York, and more particularly  
the South-East corner of the elevator bank  
on the ground floor/first (1st) floor of 375  
South End Avenue, New York, New York on  
January 11, 2014. The names of the "JOHN  
DOE(S) 1 THROUGH 10 are fictitious and the  
actual names of these defendant(s)  
are not known to plaintiff at present,**

**Defendants**

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It is further

ORDERED that Plaintiff shall serve a copy of the instant decision with notice of entry upon all of the Defendants in the underlying consolidated action; it is further

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

ORDERED that movant is directed to serve a copy of this order with notice of entry on the County Clerk (Room 141 B), who shall consolidate the papers in the actions hereby consolidated and shall mark his records to reflect the consolidation, and it is further


ORDERED that movant is directed to serve a copy of this order with notice of entry upon the Clerk of the Trial Support Office (Room 158), who is hereby directed to mark the court's records to reflect the consolidation; and it is further

ORDERED that upon service of this order with notice of entry, Defendants may serve amended answers, if so advised, within twenty (20) days; and it is further

ORDERED that the Parties shall appear before the court for a conference on October 2, 2017 at 9:30 am in Part 30 before Justice Sherry Klein Heitler.

The foregoing constitutes the ORDER and DECISION of the Court.

Dated: September 12, 2017

  
HON. ROBERT D. KALISH  
J.S.C.

- 1. Check one: .....  CASE DISPOSED  NON-FINAL DISPOSITION
- 2. Check as appropriate: MOTION IS:  GRANTED  DENIED  GRANTED IN PART  OTHER
- 3. Check as appropriate: .....  SETTLE JUDGEMENT  SUBMIT ORDER  
 DO NOT POST  FIDUCIARY APPOINTMENT  REFERENCE