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| <b>Shahinian v Granite Bldg. 2, LLC</b>                                                                                                                                                                                        |
| 2017 NY Slip Op 33091(U)                                                                                                                                                                                                       |
| January 24, 2017                                                                                                                                                                                                               |
| Supreme Court, Nassau County                                                                                                                                                                                                   |
| Docket Number: 12482-13                                                                                                                                                                                                        |
| Judge: Daniel Palmieri                                                                                                                                                                                                         |
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| This opinion is uncorrected and not selected for official publication.                                                                                                                                                         |

**PORT FORM ORDER**

**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NASSAU**

**P R E S E N T : HON. DANIEL PALMIERI, J.S.C.**

-----X

**SIROON SHAHINIAN**

**TRIAL/IAS PART 16**

**Index No.: 12482-13**

**Plaintiff,**

**-against-**

**Mot. Seq. 005**

**Mot. Date: 1-19-17**

**Submit Date: 1-19-17**

**GRANITE BUILDING 2, LLC,  
LALEZARIAN PROPERTIES, LLC.,  
LALEZARIAN DEVELOPERS, INC.,  
TOWN OF NORTH HEMPSTEAD,  
NASSAU COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY,  
MONY AT LAKE SUCCESS, LLC and  
1999 MARCUS AVENUE LLC,**

**Defendants.**

-----X

**GRANITE BUILDING 2, LLC, LALEZARIAN  
PROPERTIES, LLC, LALEZARIAN DEVELOPERS,  
INC., TOWN OF NORTH HEMPSTEAD, NASSAU  
COUNTY INDUSTRIAL DEVELOPMENT AGENCY,  
MONY AT LAKE SUCCESS, LLC and  
1999 MARCUS AVENUE LLC.,**

**Third-Party Plaintiffs,**

**-against-**

**AMERICAN PAVING & MASONRY CORP.,**

**Third-Party Defendant.**

-----X

**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NASSAU**

-----X

**SIROON SHAHINIAN,**

**INDEX NO. 607187-16**

**Plaintiff**

**Action 2**

**-against-**

**AMERICAN PAVING & MASONRY, CORP.,**

**Defendants.**

-----X  
**The following papers have been read on this motion:**

**Notice of Motion, dated 12-28-16.....1**

The motion by the plaintiffs, in both actions to consolidate the above actions pursuant to CPLR §602(a) is granted.

The Court has previously issued orders dated March 9, 2015 consolidating two-previous actions, March 31, 2015 and November 9, 2015, granting summary judgment in favor of the Village of Lake Success and County of Nassau respectively.

It is proper and within the court's discretion to order consolidation, where as here, both actions involve common questions of law and facts and consolidation will avoid unnecessary duplication of trials, costs and inconsistent results. *Gutman v. Klein*, 26 A.D.3d 464 (2d Dept. 2006).

These actions arise from the same trip and fall accident that occurred in Nassau County on September 24, 2011. In both actions, Summons and Complaints have been served and neither have been placed on the trial calendar. While the actions may be in different stages of discovery, they are not such that can be held as "markedly" different. The procedural disparity is not so great as to give rise to substantial prejudice, especially since this Court will direct an expedited discovery schedule in Action No. 2. *Citibank, N.A. v. Van Brunt Properties, LLC* 34 Misc.3d 1240(A), N.Y. Sup 2012; *Cf. Abrams v. Port Auth. Trans-Hudson Corp.*, 1 A.D.3d 118, 119 (1<sup>st</sup> Dept. 2003). Furthermore, any supposed prejudice is outweighed by the potential of inconsistent verdicts if separate trials would in fact proceed. *Pierre-Louis v. DeLonghi Am., Inc.*, 66 A.D.3d 855, 856 (2d Dept. 2009).

Absent a showing of prejudice to a substantial right by a party opposing such a request, the existence of common questions of law or fact justifies the grant of a motion for consolidation. *Mas-Edwards v. Ultimate Servs., Inc.*, 45 A.D.3d 540 (2d Dept. 2007); *Perini Corp. v. WDF, Inc.* 33 A.D.3d 605 (2d Dept. 2006). Moreover, consolidation is appropriate where it will avoid duplicative discovery and trials. *Best Price*

*Jewelers.Com, Inc. v. Internet Data Stor. & Sys., Inc.* 51 A.D.3d 839 (2d Dept. 2008).

The Court can take adequate steps to assure that discovery in the two related actions is expeditiously completed. *Alsol Enters., Ltd. V. Premier Lincoln-Mercury, Inc., supra*; *Zupich v. Flushing Hosp. & Med. Ctr.*, 156 A.D.2d 677 (2d Dept. 1989). Additionally, as upon trial, common questions of law and facts will arise and the time of the witnesses, jurors, parties and the Court will be used more efficiently if they are consolidated.

Therefore it is,

**ORDERED**, that the actions are consolidated; and it is further

**ORDERED**, that the caption shall be as set forth below:

-----X  
SIROON SHAHINIAN,

Plaintiff,

Index No. 12482-13

Action 1

*-against-*

GRANITE BUILDING 2, LLC,  
LALEZARIAN PROPERTIES, LLC  
LALEZARIAN DEVELOPERS, INC.  
TOWN OF NORTH HEMPSTEAD,  
NASSAU COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY,  
MONY AT LAKE SUCCESS, LLC and  
1999 MARCUS AVENUE LLC, and  
AMERICAN PAVING & MASONRY CORP.,  
Defendants.

-----X  
GRANITE BUILDING 2, LLC,  
LALEZARIAN PROPERTIES, LLC.,  
LALEZARIAN DEVELOPERS, INC.,  
TOWN OF NORTH HEMPSTEAD,  
NASSAU COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY,  
MONY AT LAKE SUCCESS, LLC and  
1999 MARCUS AVENUE, LLC.,

Third-Party Plaintiffs,

*-against-*

**AMERICAN PAVING & MASONRY CORP.,****Third-Party Defendants.**

-----X

The parties may stipulate that third party claims may be deemed cross claims and to further amend the caption.

It is further

**ORDERED**, that all matters of trial practice, including the right to open and close, are reserved to the Justice presiding at the trial; and it is further

**ORDERED**, that all parties shall serve upon any party so demanding copies of disclosure documents heretofore obtained in the other action; and it is further

**ORDERED**, that each party shall be entitled to enter separate Judgments and Bills of Costs and Disbursements, in each action respectively, if costs are allowed; and it is further

**ORDERED**, that the movants shall serve within 30 days, a copy of this Order upon all parties to Actions No. 1 and 2 upon receipt of a copy of this Order from any source and upon the Clerk of the Supreme Court of Nassau County, and upon receipt of this Order, the Nassau County Clerk is directed to join the files.

Each party shall provide to every other party copies of all discovery material exchanged to date and the parties shall be prepared to establish at the conference described below, an expedited discovery schedule.

The attorneys shall appear at a previously scheduled compliance conference before the undersigned at the Supreme Courthouse, 100 Supreme Court Drive, Mineola, N.Y., on February 7, 2017, at 9:30 a.m. No adjournments of this conference will be permitted absent the permission of or Order of this Court. All parties are forewarned that failure to attend the conference may result in Judgment by Default, the dismissal of pleadings

(see 22 NYCRR 202.27) or monetary sanctions (22 NYCRR 130-2.1 et seq.).

This shall constitute the Decision and Order of this Court.

ENTER

DATED: January 24, 2017  
Mineola, New York

  
HON. DANIEL PALMIERI  
Supreme Court Justice

**Attorneys for Plaintiff**  
Law Office of Souren A. Israelyan  
39 Broadway, Suite 950  
New York, New York 10006

ENTERED

JAN 31 2017

NASSAU COUNTY  
COUNTY CLERK'S OFFICE

**Attorneys for Defendants**  
Varvaro, Cotter & Bender  
(Granite Building 2, LLC,  
Lalezarian Properties, LLC.,  
Lalezarian Developers, INC.  
Nassau County Industrial  
Development Agency,  
Mony at Lake Success, LLC

1999 Marcus Avenue LLC.  
1133 Westchester Avenue, Suite S325  
White Plains, New York 10604

Lorienton N. A. Palmer, Esq.  
(Town Attorney for  
Town of North Hempstead)  
220 Plandome Rd  
P.O. Box 3000  
Manhasset, New York 11030

Devitt Spellman Barrett, LLP  
Kevin M. Spellman, Esq.  
(American Paving & Masonry, Corp.)  
50 Rte 111, Suite 314  
Smithtown, New York 11787