

Hall v Abdelaziz

2018 NY Slip Op 31965(U)

August 14, 2018

Supreme Court, New York County

Docket Number: 157067/2017

Judge: Adam Silvera

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This opinion is uncorrected and not selected for official publication.

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

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|--------------------------|--------------------------|------------------------|-----------------------------------|
| PRESENT: | <u>HON. ADAM SILVERA</u> | PART | IAS MOTION 22 |
| | <i>Justice</i> | | |
| -----X | | INDEX NO. | <u>157067/2017</u> |
| SHEILA HALL, NIKETA HALL | | MOTION DATE | <u>07/20/2018, 07/16/2018</u> |
| Plaintiff, | | MOTION SEQ. NO. | <u>002 003</u> |
| - v - | | | |
| RAMADON ABDELAZIZ, | | | |
| Defendant. | | | |

DECISION AND ORDER

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The following e-filed documents, listed by NYSCEF document number (Motion 002) 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 58
 were read on this motion to/for JUDGMENT - DEFAULT.

The following e-filed documents, listed by NYSCEF document number (Motion 003) 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57
 were read on this motion to/for CONSOLIDATE/CHANGE VENUE.

Upon the foregoing documents, it is ordered that plaintiffs' motion for a default judgment (mot. seq. no. 002) and motion to consolidate and change venue (mot. seq. no. 003) are decided as indicated above.

As to plaintiffs' motion to consolidate, it is ordered that such motion to change venue and to consolidate is granted. Plaintiffs move to consolidate this personal injury action with another action currently pending in the Supreme Court, County of Bronx (Sheila Hall and Niketa Hall v Lenin Hernandez, index no. 305110/14), arguing that the two actions arise out of the same accident and have common parties. CPLR §602(a) states that "[w]hen actions involving a common question of law or fact are pending before a court, the court, upon motion ... may order the actions consolidated". No opposition has been filed. It is undisputed that the actions arise out

of the same motor vehicle accident and involve many of the same parties. Thus, plaintiffs' motion to consolidate is granted.

As to plaintiffs' motion for a default judgment, the Court notes that plaintiffs moved to consolidate this action and transfer it to the New York State Supreme Court, Bronx County. Such motion is granted as indicated above. Furthermore, defendant herein has filed and served an answer in a related action in the Bronx County, and is currently represented by counsel. Thus, plaintiffs' motion for a default judgment is denied without prejudice to re-file in the New York State Supreme Court, Bronx County, following the consolidation as ordered herein and within 45 days of the transfer of the papers filed herein to the court in Bronx County.

Accordingly, it is

ORDERED that plaintiffs' motion to consolidate and to change venue (mot. seq. no. 003) is granted and the action Sheila Hall and Niketa Hall vs. Ramadon Abdelaziz , Index No. 157067/17, pending in this Court, shall be consolidated in the New York State Supreme Court, Bronx County, with Sheila Hall and Niketa Hall vs. Lenin Hernandez, Lenin Hernandez v Ramadan A. Abdelaziz, Index No. 305110/14, Bronx County; and it is further

ORDERED that the consolidation shall take place under Bronx County Index No. 305110/14 and the consolidated action shall bear the following caption:

SHEILA HALL and NIKETA HALL,
Plaintiffs,

-against-

Index No. 305110/14

LENIN HERNANDEZ and RAMADAN
A. ABDELAZIZ,
Defendants.

LENIN HERNANDEZ,
Defendants/Third-Party Plaintiff,

-against-

RAMADAN A. ABDELAZIZ,
Third-Party Defendant.

And it is further

ORDERED that the venue of this action under Index No. 157067/17 is changed from this Court to the Supreme Court, County of Bronx, and within 30 days from entry of this order, counsel for plaintiffs shall serve a certified copy of this order with notice of entry upon the Clerk of the Supreme Court, Bronx County, and shall pay the appropriate fee, if any, for such transfer and shall contact the staff of said Clerk to arrange for the effectuation of the transfer in an efficient manner; and it is further

ORDERED that service upon the Clerk of the Supreme Court, Bronx County shall be made in accordance with any applicable protocol or other procedures of said county; and it is further

ORDERED that the Clerk of this Court, shall transfer the documents on file under Index No. 157067/17 to the Clerk of the Supreme Court, Bronx Court for the purpose of consolidation; and it is further

ORDERED that the Clerk of the Supreme Court, Bronx County and the Clerk of this court shall coordinate the transfer of the documents being transferred so as to ensure an efficient transfer and to minimize insofar as practical the reproduction of such documents, including with regard to any documents that may be in digital format; and 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 such service upon the Clerk of the General Clerk's Office shall be made in hard-copy format if the case pending in this county is a hard-copy case or, if the case pending here is an e-filed one, shall be made in accordance with the procedures set forth in the aforesaid Protocol; and it is further

ORDERED that plaintiffs' motion for a default judgment is denied without prejudice to re-file in the New York State Supreme Court, Bronx County, following the consolidation as ordered herein and within 45 days of the transfer of the papers filed herein to the court in Bronx County.

This constitutes the Decision/Order of the Court.



8/14/2018
DATE

ADAM SILVERA, J.S.C.

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| CHECK ONE: | <input checked="" type="checkbox"/> | CASE DISPOSED | <input type="checkbox"/> | DENIED | <input type="checkbox"/> | NON-FINAL DISPOSITION | <input type="checkbox"/> | OTHER |
| APPLICATION: | <input type="checkbox"/> | GRANTED | <input type="checkbox"/> | | <input type="checkbox"/> | GRANTED IN PART | <input checked="" type="checkbox"/> | |
| CHECK IF APPROPRIATE: | <input type="checkbox"/> | SETTLE ORDER | <input type="checkbox"/> | | <input type="checkbox"/> | SUBMIT ORDER | <input type="checkbox"/> | REFERENCE |
| | <input type="checkbox"/> | INCLUDES TRANSFER/REASSIGN | <input type="checkbox"/> | | <input type="checkbox"/> | FIDUCIARY APPOINTMENT | <input type="checkbox"/> | |