

CMS v Skyline Eng'g, L.L.C.
2018 NY Slip Op 33286(U)
December 11, 2018
Supreme Court, New York County
Docket Number: 653112/2015
Judge: Lucy Billings
Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op <u>30001</u> (U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.
This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: PART 46

-----x
CMS, RISK MANAGEMENT HOLDINGS LLC and
COMPLETE PROPERTIES, INC.,

Index No. 653112/2015

Plaintiffs

- against -

DECISION AND ORDER

SKYLINE ENGINEERING, L.L.C., RGB GROUP,
INC., EUROCRAFT CONTRACTING LLC,
DUBINSKY CONSULTING ENGINEER P.C.,
ELIEZER DUBINSKY, P.E., AVISHAY I.
MAZOR, P.E., JOHN C. BECKER, P.E.,
BECKER ENGINEERING, P.C., CARL STEIN,
R.A., ELEMENTAL ARCHITECTURE, LLC,
132W26 OWNER LLC, PARAMOUNT BUILDERS
CONTRACTING CORP., AGL INDUSTRIES INC.,
CPG CONSTRUCTION & DEVELOPMENT LI CORP.,
and CONSTRUCTION & DEVELOPMENT CORP.,

Defendants

-----x
LUCY BILLINGS, J.S.C.:

Defendant 132W26 Owner LLC moves to consolidate this action
for the purposes of disclosure with six other actions in this
court: Harleysville Insurance Company a/s/o 130 West 26th Street
Artist Housing Development Fund Corporation v. Sklyline
Engineering, L.L.C., et al., Index Number 151359/2017; 130 W.
26th Street Housing Development Fund Corporation v. 132W26 Owner
LLC, et al., Index Number 151743/2017; 132 W26 Owner, LLC v.
Paramount Builders Contracting Corp., et al., Index Number
152184/2017; Thirteen Group LLC d/b/a Tre Dici v. Skyline
Engineering, L.L.C. et al., Index Number 152602/2017; Pacific
Indemnity Insurance Company a/s/o Tina D. Difelicianantonio and
Jane Wagner v. Paramount Builders Contracting Corp. and 132 W26

Owner LLC, Index Number 153848/2017; and Paramount Builders Contracting Corp. v. Nationwide Mutual Fire Insurance Company, et al., Index Number 652674/2017. C.P.L.R. § 602(a).

Since the plaintiffs in each action all seek damages arising from allegedly negligent construction and excavation work at 132 West 26th Street, New York County, the actions share common questions of law and fact, warranting consolidation. Yoon Jung Kim v. Gahee An, 150 A.D.3d 590, 594 (1st Dep't 2017); Karg v. Kern, 125 A.D.3d 527, 529 (1st Dep't 2015); Plot Realty LLC v. DeSilva, 45 A.D.3d 312, 313 (1st Dep't 2007). Consolidation further serves the interests of judicial economy because the actions to be consolidated are at similar stages of disclosure and involve overlapping disclosure, and no party opposes consolidation or demonstrates any prejudice from consolidation. Walls v. Prestige Mgt., Inc., 59 A.D.3d 311, 311 (1st Dep't 2009); Amcan Holdings, Inc. v. Torys LLP, 32 A.D.3d 337, 339 (1st Dep't 2006); Geneva Temps, Inc. v. New World Communities, Inc., 24 A.D.3d 332, 334 (1st Dep't 2005). The court therefore grants defendant 132 W26 Owner LLC's unopposed motion to consolidate the six other actions with this action under its Index Number for the purposes of disclosure. C.P.L.R. § 602(a).

The consolidated actions shall bear the following caption:

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: PART 46

-----x

CMS, RISK MANAGEMENT HOLDINGS LLC and
COMPLETE PROPERTIES, INC.,

Plaintiffs

Index No. 653112/2015

Action No. 1

- against -

SKYLINE ENGINEERING, L.L.C., RGB GROUP
INC., EUROCRAFT CONTRACTING LLC,
DUBINSKY CONSULTING ENGINEER P.C.,
ELIEZER DUBINSKY, P.E., AVISHAY I.
MAZOR, P.E., JOHN C. BECKER, P.E.,
BECKER ENGINEERING, P.C., CARL STEIN,
R.A., ELEMENTAL ARCHITECTURE, LLC,
132W26 OWNER LLC, PARAMOUNT BUILDERS
CONTRACTING CORP., AGL INDUSTRIES INC.,
CPG CONSTRUCTION & DEVELOPMENT LI CORP.,
and CONSTRUCTION & DEVELOPMENT CORP.,

Defendants

-----X
-----X

HARLEYSVILLE INSURANCE COMPANY
a/s/o 130 WEST 26TH STREET ARTIST
HOUSING DEVELOPMENT FUND CORPORATION,

Index No. 151359/2017

Plaintiffs

Action No. 2

-against-

SKYLINE ENGINEERING, L.L.C., RGB GROUP
INC., EUROCRAFT CONTRACTING LLC,
DUBINSKY CONSULTING ENGINEER, P.C.,
ELIEZER DUBINSKY, P.E., AVISHAY I.
MAZOR, P.E., JOHN C. BECKER, P.E.,
BECKER ENGINEERING, P.C., CARL STEIN,
R.A., ELEMENTAL ARCHITECTURE, LLC,
132W26 OWNER, LLC, STEVEN ANCONA, JACK
ANCONA, FLATIRON REAL ESTATE ADVISORS,
LLC, PARAMOUNT BUILDERS CONTRACTING
CORP., AGL INDUSTRIES INC., CPG
CONSTRUCTION & DEVELOPMENT LI CORP.,
and CPG CONSTRUCTION & DEVELOPMENT
CORP.,

Defendants

-----X
-----X

130 W. 26TH STREET HOUSING DEVELOPMENT
FUND CORPORATION, SHELBY ROSS, CLIFFORD
ENRIGHT, ANDREW BLACKMAN, SUSAN
BUTTENWEISER, MARIA QUIROGA, DAN
ZMOLIK, JAY GARDNER, JEANNE KOENIG,

TINA DIFELICIANTONIO, and JANE WAGNER,

Index No. 151743/2017

Plaintiffs

Action No. 3

- against -

132W26 OWNER LLC, STEVEN ANCONA, JACK ANCONA, FLATIRON REAL ESTATE ADVISORS, LLC, SKYLINE ENGINEERING, LLC, RGB GROUP INC., RENZO G. BARSALLO, P.E., EUROCRAFT CONTRACTING LLC, DUBINSKY CONSULTING ENGINEER, P.C., ELIEZER DUBINSKY, P.E., AVISHAY I. MAZOR, P.E., BECKER ENGINEERING, P.C., JOHN S. BECKER, P.E., CARL STEIN, R.A., ELEMENTAL ARCHITECTURE, LLC, PARAMOUNT BUILDERS CONTRACTING CORP., AGL INDUSTRIES, INC., CPG CONSTRUCTION & DEVELOPMENT LI CORP, CPG CONSTRUCTION & DEVELOPMENT CORP., NATIONWIDE MUTUAL FIRE INSURANCE CO., and STATE NATIONAL INSURANCE COMPANY,

Defendants

-----X
-----X

132 W26 OWNER, LLC,

Index No. 152184/2017

Plaintiff

Action No. 4

- against -

PARAMOUNT BUILDERS CONTRACTING CORP., RGB GROUP INC., AVISHAY I. MAZOR, P.E., and BECKER ENGINEERING, P.C.,

Defendants

-----X
-----X

THIRTEEN GROUP LLC d/b/a TRE DICI,

Index No. 152602/2017

Plaintiff

Action No. 5

- against -

SKYLINE ENGINEERING, L.L.C., RGB GROUP INC., EUROCRAFT CONTRACTING LLC, DUBINSKY CONSULTING ENGINEER, P.C.,

ELIEZER DUBINSKY, P.E., BECKER
ENGINEERING, P.C., CARL STEIN, R.A.,
ELEMENTAL ARCHITECTURE, LLC, 132W26
OWNER LLC, PARAMOUNT BUILDERS
CONTRACTING CORP., AGL INDUSTRIES INC.,
CPG CONSTRUCTION & DEVELOPMENT LI CORP.,
and CPG CONSTRUCTION & DEVELOPMENT
CORP.,

Defendants

-----X
-----X

PACIFIC INDEMNITY INSURANCE COMPANY
a/s/o TINA D. DIFELICIAANTONIO and JANE
WAGNER,

Index No. 153848/2017

Plaintiffs

Action No. 6

- against -

PARAMOUNT BUILDERS CONTRACTING CORP.
and 132 W26 OWNER LLC,

Defendants

-----X

PARAMOUNT BUILDERS CONTRACTING CORP.,

Third Party Plaintiff

-against-

SKYLINE ENGINEERING, LLC, RGB GROUP
INC., AVISHAY I. MAZOR, PE, EUROCRAFT
CONTRACTING LLC, BECKER ENGINEERING,
PC, DUBINSKY CONSULTING ENGINEERING,
PC, and AGL INDUSTRIES INC.,

Third Party Defendants

-----X
-----X

PARAMOUNT BUILDERS CONTRACTING CORP.,

Index No. 652674/2017

Plaintiff

Action No. 7

- against -

NATIONWIDE MUTUAL FIRE INSURANCE
COMPANY, RGB GROUP INC., 132 W26 OWNER
LLC, FLATIRON REAL ESTATE ADVISORS,
JACK ANCONA, and STEVEN ANCONA,

Defendants

-----x

The pleadings in the seven actions shall remain the pleadings in the consolidated action. Defendant 132 W26 Owner LLC shall serve this order with notice of entry on all parties and deliver this order with notice of entry to the County Clerk (60 Centre Street, Room 141B), who shall consolidate the files in the seven actions for the purposes of disclosure and record the consolidation. All parties shall appear in Part 46, Room 204, 71 Thomas Street, New York County, on January 17, 2019, at 2:15 p.m. for a status conference.

DATED: December 11, 2018

LUCY BILLINGS, J.S.C.