

Lugo v Stork Driver, LLC.

2019 NY Slip Op 30365(U)

February 19, 2019

Supreme Court, New York County

Docket Number: 158174/2017

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**

PRESENT: HON. ADAM SILVERA PART IAS MOTION 22

Justice

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INDEX NO. 158174/2017

GABRIEL LUGO, LETICIA LUGO, BLANCA NIEVES,

MOTION DATE 01/30/2019

Plaintiff,

MOTION SEQ. NO. 002

- v -

STORK DRIVER, LLC., ABDOULAYE PAPA,

DECISION AND ORDER

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 002) 33, 34, 35, 36, 37, 38

were read on this motion to/for CONSOLIDATE/JOIN FOR TRIAL

Upon the foregoing documents, it is ordered that this motion for consolidation, by defendants Stork Driver LLC and Abdoulaye Dia Papa is granted. Defendants move to consolidate this personal injury action with an action for property damages currently pending in the Civil Court, Queens County, (State Farm Mutual Automobile Ins. Co. A/S/O Leticia Lugo v Stork Driver, LLC and Abdoulaye Dia Papa, index no. 2950/18), 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, defendants’ motion to consolidate is granted to the extent that these actions are joined for discovery and trial. Each action shall maintain separate pleadings, captions, and index numbers, with separate certificates of readiness and notes of issue.

It appearing to this court that the Civil Court of the City of New York, County of Queens, does not have jurisdiction to grant the full relief to which the parties are entitled in the case of

State Farm Mutual Automobile Ins. Co. A/S/O Leticia Lugo v Stork Driver, LLC and Abdoulaye Dia Papa, index no. 2950/18, pending in that court, it is

ORDERED that the motion of defendants herein to remove said action to this court pursuant to CPLR 325(b) and to consolidate that action with this one is granted; and it is further

ORDERED that, within 30 days from entry of this order, counsel for movant shall serve a certified copy of this order upon the Clerk of the Civil Court, Queens County and shall contact the Clerk to arrange for the effectuation of this transfer in an efficient manner; and it is further

ORDERED that the Clerk of the Civil Court, Queens County shall, upon such service and the payment of the appropriate fee, if any, transfer to this court all of the papers heretofore filed in said action in that Court; and it is further

ORDERED that said Civil Court action shall be consolidated with this action as indicated above, and the County Clerk to issue a separate index number to the Civil Court action, upon service and the payment of any fees; and it is further

ORDERED that the caption of the consolidated action shall be the following:

GABRIEL LUGO, LETICIA LUGO,
and BLANCA NIEVES,

Plaintiffs,

Action No. 1
Index No. 158174/17

-against-

STORK DRIVER LLC and
ABDOULAYE DIA PAPA,

Defendants.

STATE FARM AUTOMOBILE
INSURANCE COMPANY A/S/O
LETICIA LUGO,

Plaintiff,

Action No. 2
Index No.

-against-

STORK DRIVER LLC and
ABDOULAYE DIA PAPA,

Defendants.

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 the Clerk of the Civil Court 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 documents, including with regard to documents in digital format; and it is further

ORDERED that, as applicable and insofar as practical, the Clerk of this Court shall file the documents transferred from the Civil Court in the consolidated case file under the New York County Index Number thereof in the New York State Courts Electronic Filing System or make appropriate notations with regard to said documents in the e-filing records of the court so as to ensure access to the documents in the consolidated action; and it is further

ORDERED that, within 30 days from entry of this order, counsel for movant shall serve a copy of this order with notice of entry upon the Clerk of this Court (60 Centre Street, Room 141B) and the Clerk of the General Clerk's Office (60 Centre Street, Room 119), who shall mark their records to reflect this consolidation; and it is further

ORDERED that such service upon the Clerk of this Court and the Clerk of the General Clerk's Office shall be made in accordance with the procedures set forth in the *Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases* (accessible at the "E-Filing" page on the court's website at the address www.nycourts.gov/supctmanh); and it is further

ORDERED that discovery in this action is to proceed expeditiously; and it is further

ORDERED that all counsel are directed to appear for a previously scheduled compliance conference on March 25, 2019 at 9:30am, in room 103 of 80 Centre Street, New York, NY.

This constitutes the Decision/Order of the Court.



2/19/2019

DATE

ADAM SILVERA, J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE