

**Alvarado v Petretti & Assoc. LLC**

2019 NY Slip Op 31933(U)

July 8, 2019

Supreme Court, New York County

Docket Number: 160503/2016

Judge: Barbara Jaffe

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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. BARBARA JAFFE PART IAS MOTION 12EFM

Justice

-----X

MARCO ALVARADO,
Plaintiff,

- v -

INDEX NO. 160503/2016
MOTION DATE
MOTION SEQ. NO. 001

PETRETTI & ASSOCIATES LLC, WEIL, GOTSHAL
& MANGES LLP, CBRE, INC., BOSTON
PROPERTIES, INC., and 767 FIFTH PARTNERS
LLC,

Defendants.

-----X

PETRETTI & ASSOCIATES LLC, WEIL, GOTSHAL &
MANGES LLP, BOSTON PROPERTIES, INC., and 767
FIFTH PARTNERS LLC,

Third-Party Plaintiffs,

-against-

LIBERTY CONTRACTING CORP.,

Third-Party Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 39-49
were read on this motion to consolidate.

Plaintiff moves pursuant to CPLR 602 for an order consolidating this action with Marco
Alvarado v Petretti & Associates LLC, et al., pending in this court under index number
162026/2018. Defendants and third-party defendant do not oppose.

On December 14, 2016, plaintiff filed his summons and complaint in this action, alleging
to have suffered injuries while working on the premises located at 767 Fifth Avenue in
Manhattan due to violations of Labor Law §§ 200, 240, and 241(6). (NYSCEF 40). On January

6, 2017, plaintiff filed a supplemental summons, adding defendants Petretti & Associates LLC and Weil, Gotshal & Manges LLP to the caption. (NYSCEF 41).

On April 3, 2017, third-party plaintiffs Petretti, Weil, Boston Properties, Inc., and 767 Fifth Partners LLC filed a third-party summons and complaint against third-party defendant Liberty Contracting Corp., demanding contribution and indemnification. (NYSCEF 45).

On May 4, 2017, plaintiff discontinued its claims against defendant CBRE, Inc. (NYSCEF 43).

On December 21, 2018, plaintiff initiated an action in this court against defendants Petretti, Weil, Boston Properties, and 767 Fifth Partners, arising from the same accident (index no. 16026/2018). (NYSCEF 47).

Plaintiff contends that as both actions arise from the same incident and involve the same parties, consolidation is warranted under this action's index number. (NYSCEF 39).

When multiple actions raise common questions of law or fact, they may be consolidated to avoid unnecessary costs or delay, absent a showing of prejudice. (CPLR 602(a); *Progressive Ins. Co. v Vasquez*, 10 AD3d 518, 519 [1st Dept 2004]). Here, the two actions concern the same questions of law and fact, and no party demonstrates that consolidation will prejudice a substantial right. (*Geneva Temps, Inc. v New World Communities, Inc.*, 24 AD3d 332, 334 [1st Dept 2005]).

Accordingly, it is hereby

ORDERED, that the motion is granted and the above-captioned action is consolidated in this Court with *Marco Alvarado v Petretti & Associates LLC, et al.*, Index No. 162026/2018, pending in this Court; it is further

ORDERED, that the consolidation shall take place under Index No. 160503/2016 and the

consolidated action shall bear the following caption:

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MARCO ALVARADO,

Plaintiff,

- v -

PETRETTI & ASSOCIATES LLC, WEIL, GOTSHAL & MANGES LLP, BOSTON PROPERTIES, INC., and 767 FIFTH PARTNERS LLC,

Defendants.

-----X

PETRETTI & ASSOCIATES LLC, WEIL, GOTSHAL & MANGES LLP, BOSTON PROPERTIES, INC., and 767 FIFTH PARTNERS LLC,

Third-Party Plaintiffs,

-against-

LIBERTY CONTRACTING CORP.,

Third-Party Defendant.

-----X

It is further

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

ORDERED that, within 30 days from entry of this order, movant shall serve a copy of this order with notice of entry on the Clerk of the Court (60 Centre Street, Room 141 B), who shall consolidate the documents in the actions hereby consolidated and shall mark his records to reflect the consolidation; it is further

ORDERED that counsel for the movant shall contact the staff of the Clerk of the Court to arrange for the effectuation of the consolidation hereby directed; it is further

ORDERED that service of this order upon the Clerk of the Court shall be made in hard-copy format if this action is a hard-copy matter or, if it is an e-filed case, 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](http://www.nycourts.gov/supctmanh)); it is further

ORDERED that, as applicable and insofar as is practical, the Clerk of this Court shall file the documents being consolidated in the consolidated case file under the index number of the consolidated action in the New York State Courts Electronic Filing System or make appropriate notations of such 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, movant shall serve a copy of this order with notice of entry on the Clerk of the General Clerk's Office (60 Centre Street, Room 119), who is hereby directed to reflect the consolidation by appropriately marking the court's records; 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 this action is a hard-copy matter or, if it is an e-filed case, shall be made in accordance with the procedures set forth in the aforesaid *Protocol*.

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BARBARA JAFFE, J.S.C.

7/8/2019  
DATE

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