

Ice v Park Hotels & Resorts Inc.
2019 NY Slip Op 33056(U)
October 10, 2019
Supreme Court, New York County
Docket Number: 154725/2017
Judge: Margaret A. Chan
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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTYPRESENT: HON. MARGARET A. CHAN

PART

IAS MOTION 33EFM

Justice

ROBYN ICE

Plaintiff,

- v -

PARK HOTELS & RESORTS INC.,

Defendant.

INDEX NO. 154725/2017MOTION DATE 08/14/2019MOTION SEQ. NO. 001DECISION + ORDER ON
MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 001) 14, 15, 16, 17, 18
were read on this motion to/for CONSOLIDATE/JOIN FOR TRIAL

In this action for personal injury, defendants, Park Hotels & Resorts, Inc. and Hilton Hotels, Corp. d/b/a Double Tree by Hilton Hotel New York City (collectively, defendants), move pursuant to CPLR §602 to consolidate the instant action with another action pending in Supreme Court, New York County, entitled *Robyn Ice v. Al-Stone Ground Tenant, LLC., Al-Stone, LLC., Bridge Hotel Group, LLC., Magna Hospitality Group, L.C., Lex Stone Street, L.P. and Lex Stone, Inc.*, brought, Index No. 162133/2018, for joint discovery and trial. Plaintiff, Robyn Ice, does not oppose defendants' motion.

Plaintiff alleges that on August 13, 2016, she was injured in her room at the Double Tree Hotel located at 8 Stone street, in the city, state, and county of New York. Plaintiff alleges that while she was attempting to close an open safe located in the closet of her hotel room, the safe fell on plaintiff's head causing her severe injuries (NYSCEF # 1 – Complaint at ¶¶18-19).

Discussion

In support of their motion, defendants argue that both actions arise out of the same alleged incident involving common issues of law and fact, and thus, these actions should be consolidated in the interest of judicial economy.

CPLR §602(a) provides:

“Generally. When actions involving a common question of law or fact are pending before a court, the court, upon motion, may order a joint trial of any or all the matters in issue, may order the actions consolidated, and may make such other orders concerning proceedings therein as may tend to avoid unnecessary costs or delay.”

Courts have wide discretion to consolidate actions in the interest of judicial economy where there are common questions of law and fact (*Geneva Teps, Inc. v New World Communities, Inc.* 24 AD3d 332 [1st Dept 2005]).

Here, the issues in both actions concern the alleged negligence and the corresponding alleged violation of a duty to keep premises safe by all the named defendants as related to plaintiff's accident. The alleged facts surrounding the accident and legal issues presented are identical in both actions. Moreover, neither of the two actions have been noticed for trial and discovery is still pending in both proceedings.

In sum, as the two separate actions arose out of the same accident and the same set of facts and issues of law, consolidation is appropriate.

Accordingly, it is hereby

ORDERED that the motion is granted, and the above-captioned action is consolidated in this Court with the action entitled *Ice v. Al-Stone Ground Tenant LLC, et. al.*, index No. 162133/2018, pending in this Court; it is further

ORDERED that the consolidation shall take place under index no. 154725/2017, and the consolidated action shall bear the following caption:

-----X
ROBYN ICE,

Plaintiff,

Index No: 154725/17

-against-

PARK HOTELS & RESORTS, INC., HILTON HOTELS,
CORP. d/b/a DOUBLE TREE BY HILTON HOTEL
NEW YORK CITY, AL-STONE GROUND TENANT
LLC, AL-STONE, LLC., BRIDGE HOTEL GROUP,
LLC., MAGNA HOSPITALITY GROUP, L.C., LEX
STONE STREET, L.P., and LEX STONE, INC.,

Defendants.

-----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); 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; 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*.

This constitutes the order of the court.

10/10/2019

DATE

CHECK ONE:

APPLICATION:

CHECK IF APPROPRIATE:

☐
☒
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☐

CASE DISPOSED

GRANTED

SETTLE ORDER

INCLUDES TRANSFER/REASSIGN

☐ DENIED

☒
☐
☐
☐

NON-FINAL DISPOSITION

GRANTED IN PART

SUBMIT ORDER

FIDUCIARY APPOINTMENT

☐ OTHER

☐ REFERENCE


MARGARET A. CHAN
J.S.C.

MARGARET A. CHAN, J.S.C.