

**Fischer v 250 E. Houston St. Assoc., L.P.**

2019 NY Slip Op 33408(U)

November 15, 2019

Supreme Court, New York County

Docket Number: 160624/2018

Judge: Deborah A. Kaplan

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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. DEBORAH A. KAPLAN** PART IAS MOTION 23EFM  
*Administrative Justice*

-----X  
DAVID FISCHER, SARAH SCHARF,  
Plaintiff,

INDEX NO. 160624/2018  
MOTION DATE N/A  
MOTION SEQ. NO. 001

- v -

250 EAST HOUSTON STREET ASSOCIATES, L.P.,  
Defendant.

**DECISION + ORDER ON  
MOTION**

-----X  
The following e-filed documents, listed by NYSCEF document number (Motion 001) 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58

were read on this motion to/for AMEND CAPTION/PLEADINGS

In this declaratory judgment action, seeking attorney’s fees and injunctive relief, plaintiffs have commenced four separate and identical actions on behalf of four plaintiffs before three justices. Specifically, the four actions are:

- Fischer v. 250 East Houston Street Associates, LP.*, No. 160624/2018 (before Justice W. Franc Perry)
- LePage v. 250 East Houston Street Associates, LP.*, No. 161131/2018 (before Justice James Edward D’Auguste)
- Day v. 250 East Houston Street Associates, LP.*, No. 161897/2018 (before Justice James Edward D’Auguste)
- Forepaugh v. 250 East Houston Street Associates, LP.*, No. 160660/2018 (before Justice Lynn R. Kotler)

On April 8, 2019, plaintiffs in each of the four cases moved to amend the complaints to add non-party 250 Houston Investors, L.P. (“Investors”) as a defendant. Thereafter, on June 24, 2019, Investors opposed each of the motions and cross-moved for consolidation and sanctions in each of the cases. Plaintiffs do not oppose the portion of Investors’ cross-motions seeking consolidation of all four cases before a single justice, as all four cases state identical causes of

action and seek identical relief from the court. (NYSCEF Doc. No. 44, ¶ 14). Accordingly, in order to promote judicial economy and to streamline discovery, the court is granting that portion of motion sequence number 001 which seeks to consolidate the actions before a single justice. It is therefore,

**ORDERED** that the portion of the motion seeking consolidation is granted and the above-captioned action is consolidated in this court with Forepaugh vs. 250 East Houston Street Associates, LP, Index No., 160660/2018; LePage vs. 250 East Houston Street Associates, LP, Index No., 161131/2018; and Day vs. 250 East Houston Street Associates, LP, Index No., 161897/2018; pending in this court; and it is further

**ORDERED** that the consolidation shall take place under Index No. 161131/2018 before Justice D’Auguste and the consolidated action shall bear the following caption:

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

-----X  
DAVID FISCHER, SARAH SCHARF, KIMBERLY  
FOREPAUGH, CECILE LEPAGE, and RICK DAY,

Index No.161131/2018

Plaintiffs,

-against-

250 EAST HOUSTON STREET ASSOCIATES, L.P.,

Defendants.  
-----X

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, 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; and 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; and 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)); and 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.

11/15/2019  
DATE

  
DEBORAH A. KAPLAN,  
Administrative Judge

Hon. Deborah A. Kaplan  
Administrative Judge  
Supreme Court, New York County  
Civil Branch

CHECK ONE:

<input type="checkbox"/>	CASE DISPOSED	<input type="checkbox"/>	DENIED
<input type="checkbox"/>	GRANTED		
<input type="checkbox"/>	SETTLE ORDER		
<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN		

<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION	<input type="checkbox"/>	OTHER
<input checked="" type="checkbox"/>	GRANTED IN PART		
<input type="checkbox"/>	SUBMIT ORDER		
<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input type="checkbox"/>	REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: