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| Pardo v LGMT 700 Fifth LLC |
| 2020 NY Slip Op 30611(U) |
| February 28, 2020 |
| Supreme Court, New York County |
| Docket Number: 155290/2018 |
| Judge: W. Franc Perry |
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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. W. FRANC PERRY PART IAS MOTION 23EFM

Justice

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ERNESTO PARDO,

Plaintiff,

- v -

LGMT 700 FIFTH LLC, PENINSULA NEW YORK PARTNERSHIP, BLDG 700 FIFTH LLC

Defendant.

-----X

INDEX NO. 155290/2018
MOTION DATE N/A
MOTION SEQ. NO. 002

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 002) 30, 31, 32, 33, 34 were read on this motion to/for CONSOLIDATE/JOIN FOR TRIAL

In this action plaintiff claims he was injured while working on a roof deck at The Peninsula Hotel. Plaintiff commenced three separate actions in this court and now seeks an order pursuant to CPLR §602 to consolidate all three actions in the interest of judicial economy, as they arise out of the same occurrence and share common issues of law or fact. The motion is submitted without opposition.

Plaintiff commenced this action under New York County Index No. 155290/2018 (hereinafter the "Action 1"). Thereafter, plaintiff determined that there should be other necessary parties named and commenced a second action under New York County index number 155532/2019, (hereinafter the "Action 2"). Almost immediately thereafter plaintiff commenced a third action in which additional contractors were named under New York County index number 155590/2019, (hereinafter the "Action 3").

Based on a review of the record, the motion to consolidate is granted, as the actions sought to be consolidated arise out of the same occurrence and share common issues of law or fact. Geneva

Temps, Inc. v. New World Communities, Inc., 24 A.D.3d 332 (1st Dep't 2005); *Firequench, Inc. v. Kaplan*, 256 A.D.2d 213 (1st Dep't 1998). Accordingly, it is hereby

ORDERED that the motion is granted and the above-captioned action is consolidated in this Court with *Pardo vs. Peninsula of New York, Inc. et al*, Index No. 155532/2019, and with *Pardo vs. Karavias Construction, Inc. et al*, Index No. 155590/2019 pending in this Court; and it is further

ORDERED that the consolidation shall take place under Index No. 155290/2018 and the consolidated action shall bear the following caption:

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

ERNESTO PARDO,

X

Index No.:155290/2018

Plaintiff,

-against-

LGMT 700 FIFTH LLC, PENINSULA
NEW YORK PARTNERSHIP, BLDG 700
FIFTH LLC, PENINSULA OF NEW YORK, INC.,
PENINSULA NEW YORK PARTNERSHIP,
E.W. HOWELL CO., LLC, KARAVIAS
CONSTRUCTION, INC., CONCRETE INDUSTRIES
ONE CORP., NICHOLSON & GALLOWAY, INC., and
JOHN DOE CONSTRUCTION COMAPANIES 1-5
(Identities presently unknown),

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 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, 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 accordance with the procedures set forth in the aforesaid *Protocol*; and it is further

ORDERED that counsel are directed to appear for a preliminary conference in Room 307, 80 Centre Street, New York, New York, on May 19, 2020, at 9:30 AM.

2/28/2020

DATE

W. FRANC PERRY, J.S.C.

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|-----------------------|-------------------------------------|-----------------------------|-------------------------------------|-----------------------|
| 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 |
| APPLICATION: | <input type="checkbox"/> | SETTLE ORDER | <input type="checkbox"/> | OTHER |
| CHECK IF APPROPRIATE: | <input type="checkbox"/> | INCLUDES TRANSFER/REASSIGN. | <input type="checkbox"/> | REFERENCE |