

Kaba v Fulton
2020 NY Slip Op 30988(U)
April 21, 2020
Supreme Court, New York County
Docket Number: 155124/2019
Judge: Adam Silvera
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**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. ADAM SILVERA PART IAS MOTION 22

Justice

-----X

ALY KABA AND BANGALEE A. SESAY,

Plaintiffs,

- v -

MICHAEL FULTON, THERESA GAMBALE, and ABOU
SANOH.

Defendants,

-----X

INDEX NO. 155124/2019

MOTION DATE 3/10/2020

MOTION SEQ. NO. 001

**DECISION + 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.

Upon the foregoing documents, it is ORDERED that defendant Abou Sanoh’s motion for
consolidation is granted. Defendant moves to consolidate this motor vehicle accident case
 (“action # 1”) for joint trial with another action, in the District Court of Nassau County, First
 District: Hempstead Part, Index Number CN-020789-19 (“action # 2”). The motion is
 unopposed.

Defendant argues 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.” This
 action, for personal injuries resulting from a motor vehicle accident which occurred on March
 12, 2019, on the eastbound Long Island Expressway at or near its intersection with Exit 36,
 North Hills, New York, and involves the same incident and overlapping injuries as action #2. As
 there are common facts pending in both cases, defendant’s motion to consolidate the two actions
 for joint trial is granted. Thus, defendant’s 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.

Accordingly, it is

ORDERED that the motion is granted, and the above-captioned action is consolidated in this Court with Geico General Insurance Company as Subrogee of Michael Fulton in the District Court of Nassau County, First District: Hempstead Part, Index Number CN-020789-19; and it is further

ORDERED that the motion of defendants to change the venue of action #2 from the District Court of Nassau County, First District: Hempstead Part to this Court is granted; and it is further

ORDERED that within 30 days from entry of this order, counsel for the movants shall serve a certified copy of this order on the Clerk of the District Court of Nassau County, First District: Hempstead Part and shall pay the appropriate transfer fee, if any, and shall contact the staff of said Clerk and cooperate in arranging the transfer of the file; and it is further

ORDERED that the Clerk of the District Court of Nassau County, First District: Hempstead Part shall transfer to the Clerk of the Supreme Court, New York County the file in the action venued in that court; and it is further

ORDERED that service upon the Clerk of the District Court of Nassau County, First District: Hempstead Part shall be made in accordance with any applicable protocol or other procedures of said county; and it is further

ORDERED that the Clerk of the District Court of Nassau County, First District: Hempstead Part and the Clerk of this Court shall coordinate the transfer of the documents being removed to this court so as to ensure an efficient transfer and to minimize insofar as is practical

the reproduction of documents, including with regard to any documents that may be in digital format; and it is further

ORDERED that within 30 days from entry of this order, counsel for the movant shall serve a copy of this order with notice of entry on the Clerk of this Court (60 Centre Street, Room 141B); and it is further

ORDERED that the Clerk of this Court, upon service of a copy of this order with notice of entry and the transfer of the file to this court, shall without a further fee, assign a New York County Index Number to the transferred action and record such action in the Clerk's records; and it is further

ORDERED that, as applicable and insofar as is practical, the Clerk of this Court shall file the documents transferred pursuant to this order under the New York County Index Number of the transferred 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; and it is further

ORDERED that, within 30 days from entry of this order, counsel for the movant shall serve a copy of this order with notice of entry upon the Clerk of the General Clerk's Office (60 Centre Street, Room 119), together with a Request for Judicial Intervention ("RJI") for the transferred action or, if an RJI was filed in the action while pending in District Court of Nassau County, First District: Hempstead Part, a copy of that RJI (in which event no additional fee shall be charged therefore) and indicate on the RJI the action joined for trial with the index number; and it is further

ORDERED that upon the service of such documents, the Clerk of the General Clerk’s Office shall mark the court’s records to reflect the transfer and assign the transferred action of the undersigned Justice of this court; and it is further

ORDERED that service upon the Clerk of this Court and the Clerk of the General Clerk’s Office shall be made in hard-copy form if the application herein has been made in hard-copy format or, if the application has been electronically filed, shall be made in accordance with the procedures et forth in the *Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases* (accessible at the “E-Filing” page on this 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 within 30 days of entry, defendants shall serve a copy of this decision/order upon all parties with notice of entry.

This constitutes the Decision/Order of the Court.

4/21/2020
DATE

ADAM SILVERA, J.S.C.

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