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| Mitchell v New York City Tr. Auth. |
| 2020 NY Slip Op 33425(U) |
| October 19, 2020 |
| supreme Court, New York County |
| Docket Number: 159270/2019 |
| Judge: Suzanne J. Adams |
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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. SUZANNE J. ADAMS PART IAS MOTION 21

Justice

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INDEX NO. 159270/2019

JERRIE MITCHELL,

MOTION DATE N/A

Plaintiff,

MOTION SEQ. NO. 002

- v -

NEW YORK CITY TRANSIT AUTHORITY,
METROPOLITAN TRANSPORTATION AUTHORITY, MTA
BUS COMPANY, ALDRICK THOMAS, DAIMLER TRUST,
GUILLERMO MENENDEZ ESCANDON

DECISION + ORDER ON
MOTION

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 002) 28, 29, 30, 31, 32
were read on this motion to/for CONSOLIDATE/JOIN FOR TRIAL

Upon the foregoing documents, it is ordered that defendants Guillermo Menendez and Juana Aguilera's motion to consolidate is granted, without opposition. Defendants move to consolidate this personal injury action with another action currently pending in Supreme Court, Bronx County (Alderick Thomas v. Juana A. Aguilera and Guillermo Menendez Escandon, Index No. 34165/2019E), on the grounds 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".

Here, it is undisputed that both actions arise out of the same motor vehicle accident that occurred on February 14, 2019, and each plaintiff claims to have sustained injuries as a result of the moving defendants' alleged negligence. No opposition has been filed. Thus, the motion to consolidate is granted and these actions are joined for discovery and trial. Each action shall

maintain separate pleadings and captions, but will have identical certificates of readiness and notes of issue.

Accordingly, it is

ORDERED that the motion is granted and the action Alderick Thomas v. Juana A. Aguilera and Guillermo Menendez Escandon, Index No. 34165/2019E, pending in the Supreme Court, Bronx County, shall be consolidated in this court with Jerrie J. Mitchell v. New York City Transit Authority, et al., Index No. 159270/2019, New York County; and it is further

ORDERED that the consolidation shall take place under New York County Index No. Index No. 159270/2019 and the consolidated action shall bear the following caption:

JERRIE J. MITCHELL,

Index No. 159270/2019

Plaintiff,

-against-

Action No. 1

NEW YORK CITY TRANSIT AUTHORITY,
METROPOLITAN TRANSPORTATION AUTHORITY,
MTA BUS COMPANY, ALDRICK R. THOMAS,
DAIMLER TRUST and GUILLERMO MENENDEZ
ESCANDON,

Defendants.

ALDERICK THOMAS,

Plaintiff,

-against-

Action No. 2

JUANA A. AGUILERA and GUILLERMO
MENENDEZ ESCANDON,

Defendants.

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 upon the Clerk of the Supreme Court, Bronx County, and shall pay the appropriate fee, if any, for such transfer and shall contact the staff of said Clerk to arrange for the effectuation of the transfer in an efficient manner; and it is further

ORDERED that service upon the Clerk of the Supreme Court, Bronx County, 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 Supreme Court, Bronx County, shall transfer the documents on file under Index No. 34165/2019E to the Clerk of this Court for the purpose of consolidation; and it is further

ORDERED that the Clerk of the Supreme Court, Bronx County, and the Clerk of this Court shall coordinate the transfer of the documents being transferred so as to ensure an efficient transfer and to minimize insofar as practical the reproduction of such documents, including with regard to any documents that may be in digital format; 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 such service upon the Clerk of the Court shall be 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 this court's website at the address www.nycourts.gov/suptctmanh); and it is further

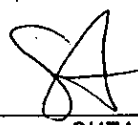
ORDERED that, as applicable and insofar as is practical, the Clerk of this Court shall file the documents transferred from the Supreme Court, Bronx County, in the consolidated case file under the New York County Index Number of the consolidated action in the New York State Courts Electronic Filing System 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 upon 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.

This constitutes the decision and order of the court.

10/19/2020
DATE


SUZANNE J. ADAMS, J.S.C.

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| 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 |
| | <input type="checkbox"/> DENIED | <input type="checkbox"/> OTHER |
| 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"/> REFERENCE |