

Mitchell v New York City Tr. Auth.

2020 NY Slip Op 33614(U)

November 2, 2020

Supreme Court, New York County

Docket Number: 159270/2019

Judge: Suzanne J. Adams

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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: <u>HON. SUZANNE J. ADAMS</u>	PART	IAS MOTION 21
<i>Justice</i>		
-----X	INDEX NO.	<u>159270/2019</u>
JERRIE MITCHELL,	MOTION DATE	<u>N/A</u>
Plaintiff,	MOTION SEQ. NO.	<u>002</u>

- v -

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

**AMENDED
DECISION + ORDER ON
MOTION**

Defendant.

-----X

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 is granted and these actions are joined for discovery and trial. Each action shall maintain separate pleadings and captions, and will file separate 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 jointly tried 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, 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 the transfer of the file in that action 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 to the Clerk of the Supreme Court, New York County, all of the papers on file in the Alderick Thomas v. Juana A. Aguilera and Guillermo Menendez Escandon, Index No. 34165/2019E, Supreme Court, Bronx County; 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 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, movants shall serve a copy of this order with notice of entry upon the Clerk of the Supreme Court, New York County (60 Centre Street, Room 141B); and it is further

ORDERED that such service upon the Clerk of this 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, upon receipt of the case file from the Clerk of the Supreme Court, Bronx County, the Clerk of this court shall, without further fee, assign a New York County index number to the matter transferred pursuant to this order and shall file under this number the documents transferred; and it is further

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

ORDERED that, within 30 days from entry of this order, movants 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”) in the action that is transferred to this county pursuant to this order or, if an RJI had already been filed in that action, with a copy of that RJI (in which event, no further fee shall be imposed); and it is further

ORDERED that the Clerk of the General Clerk’s Office shall assign the transferred action to the undersigned; and it is further

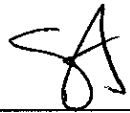
ORDERED that, upon payment of the appropriate calendar fees and the filing of notes of issue and certificates of readiness in each of the above actions, to each of which the filer shall annex a copy of this order with notice of entry, the Clerk of the General Clerk’s Office shall place

the aforesaid actions upon the trial calendar for a joint trial of both matters before the undersigned or another Justice of this court; and it is further

ORDERED that service upon the Clerk of the General Clerk's Office shall be made in hard-copy format if this is a hard-copy action or, if this is an e-filed case, shall be made in accordance with the procedures set forth in the aforesaid *Protocol*.

This constitutes the decision and order of the court.

11/2/2020
DATE


SUZANNE J. ADAMS, J.S.C.

CHECK ONE:

<input type="checkbox"/>	CASE DISPOSED	<input type="checkbox"/>	DENIED
<input checked="" 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 type="checkbox"/>	GRANTED IN PART		
<input type="checkbox"/>	SUBMIT ORDER		
<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input type="checkbox"/>	REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: