

City of New York v Childrens Community Servs., Inc.
2020 NY Slip Op 33742(U)
November 10, 2020
Supreme Court, New York County
Docket Number: 450462/2020
Judge: Lyle E. Frank
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**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. LYLE E. FRANK PART IAS MOTION 52EFM

Justice

-----X
THE CITY OF NEW YORK,

Plaintiff,

INDEX NO. 450462/2020
MOTION DATE N/A
MOTION SEQ. NO. 002

- v -

CHILDRENS COMMUNITY SERVICES, INC., THOMAS
BRANSKY, RUTH MANDELBAUM, AMX DISTRIBUTORS
LLC, ASE FLEET SERVICES LLC, AZ SECURITY
SERVICES LLC, DELTA IT SOLUTIONS LLC, SASY
ENTERPRISES INC., SUPREME AUTO LEASING CORP.,
JOHN DOE, JANE DOE, AND JANE DOE BUSINESS
ENTITIES 1 TO 100,

**DECISION + ORDER ON
MOTION**

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 002) 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 64, 65, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85 were read on this motion to/for CONSOLIDATE/JOIN FOR TRIAL.

Defendant, Childrens Community Services, Inc., moves this court for an order pursuant to CPR 602 (a) to consolidate, for joint trial and discovery, an action pending in Queens County Supreme Court with the instant action. The City of New York, the plaintiff in the instant action, supports this motion. Priority 1 Security LLC, the plaintiff in the Queens action, opposes the instant motion. For the reasons set forth below, the motion is granted.

Priority 1's main opposition is that the breach of contract for which it seeks redress is not related to the underlying action in this Court. However, the Court does not find this argument persuasive. Attached to its summons and complaint Priority 1 annexes invoices all postdating this Court's appointment of a temporary receiver. It is apparent that the authority of the temporary receiver will be an issue in Priority 1's underlying breach of contract action, thus it is appropriate to be heard by this Court. Accordingly, it is hereby

ORDERED that the motion of defendant in the instant action to change the venue of index number 713788/2020 is granted and venue is changed from the Supreme Court, County of Queens, to this Court; and it is further

ORDERED that, within 30 days from entry of this order, counsel for the movant shall serve a certified copy of this order on the Clerk of the Supreme Court, Queens County, 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 Supreme Court, Queens County 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 Supreme Court, Queens 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, Queens County 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 Supreme Court, Queens County, a copy of that RJI (in which event, no additional fee shall be charged therefor); 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 to 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 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/supctmanh); and it is further

ORDERED that the motion of attorneys for defendant Childrens Community Services Inc., is granted and upon the transfer of the action to this court, the above-captioned action shall be consolidated for joint trial and discovery with Priority 1 Security LLC v Childrens

Community Services Inc. Each action shall retain its individual index number, and separate bill of costs; and it is further

ORDERED that upon payment of the appropriate calendar fees, the filing of the notes of issue and statements of readiness in each of the above action, that this action be placed upon the trial calendar for the purposes of joint trial; and it is further

ORDERED that the trial judge will determine the order of opening and closing arguments; 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 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*; and it is further

ORDERED that upon payment of the appropriate calendar fees and the filing of notes of issue and certificates of readiness with the General Clerk's Office in each of the above actions, the Clerk of the General Clerk's Office shall place the aforesaid actions upon the trial calendar for a joint trial before the undersigned or other Justice of this court; and it is further

ORDERED that in both actions such filing with the Clerk of the General Clerk's Office 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).

11/10/2020
DATE

if

LYLE E. FRANK, J.S.C.
HON. LYLE E. FRANK
J.S.C.

CHECK ONE: CASE DISPOSED NON-FINAL DISPOSITION

GRANTED DENIED GRANTED IN PART OTHER

APPLICATION: SETTLE ORDER SUBMIT ORDER

CHECK IF APPROPRIATE: INCLUDES TRANSFER/REASSIGN FIDUCIARY APPOINTMENT REFERENCE

HON. LYLE E. FRANK
J.S.C.