

Thomas v New York City Tr. Auth.
2020 NY Slip Op 33816(U)
November 17, 2020
Supreme Court, New York County
Docket Number: 151346/2020
Judge: Suzanne J. Adams
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**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: <u>HON. SUZANNE J. ADAMS</u> <p style="text-align: right;"><i>Justice</i></p> <p>-----X</p> <p>ZETHROY THOMAS,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">- v -</p> <p>NEW YORK CITY TRANSIT AUTHORITY, EDWARD DOUCE, EMMANUEL VARGAS BORREL, VICTOR M. BORREL</p> <p style="text-align: center;">Defendants.</p> <p>-----X</p>	<table border="0"> <tr> <td style="width: 50%;">PART</td> <td>IAS MOTION 21</td> </tr> <tr> <td>INDEX NO.</td> <td><u>151346/2020</u></td> </tr> <tr> <td>MOTION DATE</td> <td><u>N/A</u></td> </tr> <tr> <td>MOTION SEQ. NO.</td> <td><u>001</u></td> </tr> </table>	PART	IAS MOTION 21	INDEX NO.	<u>151346/2020</u>	MOTION DATE	<u>N/A</u>	MOTION SEQ. NO.	<u>001</u>
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**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 001) 8, 9, 10, 11, 12, 13 were read on this motion to/for CONSOLIDATE/JOIN FOR TRIAL

Upon the foregoing documents, it is ordered that defendants Emmanuel Vargas Borrel’s and Victor M. Borrel’s motion to consolidate/join for trial is granted, without opposition. Defendants move to consolidate this personal injury action with another personal injury action currently pending in Supreme Court, Bronx County (Michael Cook v. New York City Transit Authority, Metropolitan Transportation Authority, MTA Bus Company, Manhattan and Bronx Surface Transit Operating Authority, Edward D. Douce, Victor M. Borrel and Emmanuel Vargas Borrel, Index No. 25473/2020E), 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 incident that occurred on June 13, 2019, at or near the intersection of 125th Street and Amsterdam Avenue in

Manhattan. Both plaintiffs allege they were passengers on the bus involved in the incident, and both actions involve the same parties. 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 separated certificates of readiness and notes of issue.

Accordingly, it is

ORDERED that the motion is granted and the action Michael Cook v. New York City Transit Authority, Metropolitan Transportation Authority, MTA Bus Company, Manhattan and Bronx Surface Transit Operating Authority, Edward D. Douce, Victor M. Borrel and Emmanuel Vargas Borrel, Index No. 25473/2020E, pending in the Supreme Court, Bronx County, shall be jointly tried in this court with Zethroy Thomas v. New York City Transit Authority, Edward D. Douce, Emmanuel Vargas Borrel and Victor M. Borrel, Index No. 151346/2020, 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 Michael Cook v. New York City Transit Authority, Metropolitan Transportation Authority, MTA Bus Company, Manhattan and Bronx Surface Transit Operating Authority, Edward D. Douce, Victor M. Borrel and Emmanuel Vargas Borrel, Index No. 25473/2020E, 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 such 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, movant shall serve a copy of this order with notice of entry on the Clerk of the Supreme Court, New York County (60 Centre Street, Room 141 B); 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/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, 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”) 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 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 within 60 days from entry of this order, the parties herein shall confer with one another and submit to the court, via email to the Part Clerk of Part 21 and as per the Part Rules of Part 21, a draft Preliminary Conference Order, agreed upon by all parties, to be "so-ordered" by the court.

This constitutes the decision and order of the court.



11/17/2020
DATE

SUZANNE J. ADAMS, J.S.C.

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
<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>	OTHER
<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	SUBMIT ORDER
		<input type="checkbox"/>	FIDUCIARY APPOINTMENT
		<input type="checkbox"/>	REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: