

Hussain v JP Morgan Chase & Co.

2020 NY Slip Op 34716(U)

May 7, 2020

Supreme Court, Suffolk County

Docket Number: Index No. 607138/2017

Judge: Joseph Farneti

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This opinion is uncorrected and not selected for official publication.

SHORT FORM ORDER

INDEX NO. 607138/2017

**SUPREME COURT - STATE OF NEW YORK
I.A.S. TERM, PART 37 - SUFFOLK COUNTY**

PRESENT:

HON. JOSEPH FARNETI
Acting Justice Supreme Court

SAJJAD HUSSAIN and LUBNA HUSSAIN,

Plaintiffs,

-against-

JP MORGAN CHASE & CO., BEST BUY
STORES, L.P. and BRIGHTVIEW
LANDSCAPES, LLC,

Defendants.

ORIG. RETURN DATE: JANUARY 30, 2020
FINAL SUBMISSION DATE: FEBRUARY 13, 2020
MTN. SEQ. #: 002
MOTION: MG

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Upon the following papers numbered 1 to 3 read on this motion _____

TO CONSOLIDATE

Notice of Motion and supporting papers 1-3; it is,

ORDERED that this motion by defendants BRIGHTVIEW LANDSCAPES, LLC and BRICKMAN FACILITY SOLUTIONS, LLC (“defendants”) for an Order, pursuant to CPLR 602, granting consolidation of the instant action (“Action No. 1”) with a related action entitled *Hussain v. Brickman Facility Solutions, LLC and TBR Properties, LLC*, pending in this Part under Index No. 621974/2019 (“Action No. 2”), for all purposes, is hereby **GRANTED**, without opposition, as set forth hereinafter.

This action arises from an incident that allegedly occurred on December 16, 2016, at approximately 7:00 p.m., on the sidewalk in front of a Chase Bank owned by defendant JP MORGAN CHASE & CO. (“JP Morgan”) and maintained by defendant BRIGHTVIEW LANDSCAPES, LLC (“Brightview”) located at 150 Walt Whitman Road, Huntington Station, New York (“Premises”). Plaintiff SAJJAD HUSSAIN alleges that he slipped and fell on a pile of ice melt and/or salt on a sidewalk while exiting the Chase Bank. The complaint alleges that the building in which the Chase Bank is located is maintained by “JP Morgan and Best Buy,” and that Brightview performed snow removal services at the Premises. Plaintiffs further allege that JP Morgan and Brightview contracted to remove snow and ice from the Premises. Plaintiffs claim that defendants caused the subject incident in that they “negligently managed, maintained, operated and/or controlled the premises by negligently creating a dangerous condition by placing ice melt and/or rock salt and/or a foreign substance on the sidewalk and in the path of prospective customers.”

Plaintiffs commenced Action No. 1 by the filing of a summons and verified complaint on April 17, 2017. JP Morgan joined issue by service of an answer dated May 5, 2017. Best Buy joined issue with the service of an answer dated September 6, 2017. Brightview joined issue with the service of an answer dated June 12, 2017. Plaintiffs commenced Action No. 2 by the filing of a summons and verified complaint on November 5, 2019.

Defendants now seek to consolidate the actions for purposes of joint discovery and a joint trial. Defendants allege that both actions arise out of the same incident and involve common questions of law and fact.

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CPLR 602 provides in pertinent part:

(a) Generally. When actions involving a common question of law or fact are pending before a court, the court, upon motion, may order a joint trial of any or all the matters in issue, may order the actions consolidated, and may make such other orders concerning proceedings therein as may tend to avoid unnecessary costs or delay

(CPLR 602 [a]).

The Court finds that Action No. 1 and Action No. 2 have common questions of law and fact. Moreover, no party has come forth to demonstrate prejudice to any substantial rights if the Court were to consolidate the matters. Therefore, the Court finds that consolidation for the purposes of joint discovery and a joint trial is warranted herein in the interests of judicial economy (*see Skelly v Sachem Cent. Sch. Dist.*, 309 AD2d 917 [2003]; *Nikolaidis v Makita Corp.*, 242 AD2d 322 [1997]; *Berman v Greenwood Village Community Dev., Inc.*, 156 AD2d 326 [1989]).

In view of the foregoing, this motion is **GRANTED**. The actions are hereby consolidated under **Index No. 607138/2017**, and the caption of this action shall read as follows:

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

SAJJAD HUSSAIN and LUBNA HUSSAIN,

Plaintiffs,

-against-

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JP MORGAN CHASE & CO., BEST BUY STORES,
L.P., BRIGHTVIEW LANDSCAPES, LLC,
BRICKMAN FACILITY SOLUTIONS, LLC
and TBR PROPERTIES, LLC,

Defendants.

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All parties shall exchange any matter previously received through pre-trial discovery with any party so demanding.

The foregoing constitutes the decision and Order of the Court.

Dated: May 7, 2020



HON. JOSEPH FARNETI
Acting Justice Supreme Court

____ FINAL DISPOSITION

X NON-FINAL DISPOSITION