

Belgrave v Assaf

2020 NY Slip Op 35458(U)

October 14, 2020

Supreme Court, Bronx County

Docket Number: Index No. 28373/2017E

Judge: Mary Ann Brigantti

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX PART 15

-----X,
KINIA J. BELGRAVE,

Plaintiff,

“Action No. 1”

-against-

Index No.: 28373/2017E

FADIL ASSAF and MICHAEL PARRIS,
Defendants.

-----X
SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

-----X
MICHAEL PARRIS,

Plaintiff,

“Action No. 2”

-against-

Index No.: 42708/2018E

FADIL ASSAF,
Defendant.

-----X
SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

-----X
FADIL ASSAF,

Plaintiff,

“Action No. 3”

-against-

Index No.: 42008/2020E

MICHAEL J. PARRIS,
Defendant.

-----X
SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF **KINGS**

-----X
ERING DOMINIQUE HURLEY ESCOBAR,

Plaintiffs,

“Action No. 4”

-against-

Kings Index No.: 526101/2019

FADIL ASSAF and MICHAEL J. PARRIS,
Defendants.

-----X
HON. MARY ANN BRIGANTTI:

Defendant, FADIL ASSAF, moves to consolidate the above-entitled actions for joint trial and discovery, and related relief. These actions were brought to recover damages for alleged personal injuries, and/or property damage, sustained by Plaintiffs, respectively, in the same motor vehicle accident which occurred on, or about, January 15, 2017, in the County of Kings, NY.

CPLR § 602 “Consolidation” provides that:

“(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.” [emphasis added]

Accordingly, Defendant’s motion is granted, without opposition, to the extent that the actions, set forth below, shall be tried jointly, with the remaining pretrial proceedings, including discovery, to be held jointly, because all actions arise from the same motor vehicle accident and so involve common questions of fact and law.

Thus, the above-entitled action, *Escobar v Assaf*, Kings Index No. 526101/2019, is removed, from Kings Supreme Court, to the Bronx Supreme Court, where future proceedings shall be held. CPLR § 602(b) provides that: “Cases pending in different courts. Where an action is pending in the supreme court it may, upon motion, remove to itself an action pending in another court and consolidate it or have it tried together with that in the supreme court”.

Further, CPLR R 511(d) “Change of place of trial” provides that:

“Upon filing of consent by the plaintiff or entry of an order changing the place of trial by the clerk of the county from which it is changed, the clerk shall forthwith deliver to the clerk of the county to which it is changed all papers filed in the action and certified copies of all minutes and entries, which shall be filed, entered or recorded, as the case requires, in the office of the latter clerk. Subsequent proceedings shall be had in the county to which the change is made as if it had been designated originally as the place of trial, except as otherwise directed by the court.” [emphasis added]

Thus, the Clerk of the Kings Supreme Court, upon receipt of a certified copy of this Order, shall transfer all papers on file in the action bearing the caption *Escobar v Assaf*, Kings Index No. 526101/2019, to the Clerk of the Bronx Supreme Court, upon payment of proper fees, if any.

Upon receipt of a copy of this Order with notice of entry, the Bronx County Clerk shall assign a Bronx Supreme Court Index Number to the aforesaid action entitled *Escobar v Assaf*, Kings Index No. 526101/2019; and Plaintiff therein shall forthwith file, and serve, an RJJ, and pay any appropriate fees therefor. The pleadings in the actions hereby consolidated for joint trial and discovery shall continue to stand as the pleadings.

It is noted that the above-entitled action, *Parris v Assaf*, Index No. 42708/2018, has been discontinued, and is omitted from the caption, as set forth below. The caption may read as follows:

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX**

-----X,

KINIA J. BELGRAVE,

Plaintiff,

“Action No. 1”

-against-

Index No.: 28373/2017E

FADIL ASSAF and MICHAEL PARRIS,

Defendants.

-----X

SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF BRONX

-----X

FADIL ASSAF,

Plaintiff,

“Action No. 2”

-against-

Index No.: 42008/2020E

MICHAEL PARRIS,

Defendant.

-----X

SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF BRONX

-----X

ERING DOMINIQUE HURLEY ESCOBAR,

Plaintiffs,

“Action No. 3”

-against-

Index No.: [to be inserted]

FADIL ASSAF and MICHAEL J. PARRIS,

Defendants.

-----X

However, there shall be a separate Note of Issue and Certificate of Readiness filed in each action. The trial judge may determine the sequence of proceedings at trial.

Movant shall forthwith serve a copy of this Order, with Notice of Entry: upon all of the parties in each action; as well as upon the Clerk of the Bronx Supreme Court in the Motion Support Office (Room 217), the Bronx County Clerk (Room 118), and the appropriate Clerk in the Kings Supreme Court, who shall mark their records to reflect the consolidation for joint trial and discovery as set forth herein.

It is noted that the Court previously scheduled a Pretrial Conference on January 27, 2021, at 9:30 A.M., in Part 15, in "Action No. 1". However, instead, the Clerk shall schedule a Discovery Compliance Conference for **February 2, 2021**, since it appears, for example, that the *Escobar v Assaf* Action is in its early stages of discovery. The parties shall stipulate in good faith to the completion of discovery in an expedited fashion; and all parties shall participate therein, and in any future joint discovery conferences. The parties shall review this Part's recently amended rules to learn of new procedures governing status conference appearances.

This constitutes the decision and order of this Court.

Dated: OCTOBER 14, 2020



HON. MARY ANN BRIGANTTI, J.S.C.