

BDO USA, LLP v Morris
2021 NY Slip Op 30029(U)
January 6, 2021
Supreme Court, New York County
Docket Number: 654484/2020
Judge: Andrew Borrok
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**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. ANDREW BORROK PART IAS MOTION 53EFM

Justice

-----X

BDO USA, LLP,

Plaintiff,

- v -

STEPHEN MORRIS,

Defendant.

-----X

INDEX NO. 654484/2020

MOTION DATE 10/28/2020

MOTION SEQ. NO. 001

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 001) 11, 12, 13, 14, 15, 16, 17, 18, 19, 21, 22, 23

were read on this motion to/for CONSOLIDATE/JOIN FOR TRIAL.

Upon the forgoing documents and for the reasons set forth on the record (1/6/2020), Stephen Morris's motion to consolidate is granted solely to the extent that the instant action (the **Morris Action**) is consolidated into *BDO USA, LLP v. James Andrew Stiles, Jr.*, Index No. 652352/2020 (the **Stiles Action**), but denied as to *BDO USA, LLP v. Matthew Franz et al.*, Index No. 652816/2020 (the **Franz Action**).

A decision to consolidate rests in the sound discretion of the trial court and may be granted in the interests of judicial economy where common questions of law or fact exist (CPLR § 602[a]; *Progressive Ins. Co. v Countrywide Ins. Co.*, 10 AD3d 518, 519 [1st Dept 2004]).

The record indicates that the Morris Action and Stiles Action should be consolidated because they share common issues of law and fact, namely that (i) Mr. Morris and Mr. Stiles allegedly misappropriated confidential information concerning BDO USA, LLP's (**BDO**) current and

prospective clients to divert business to a competitor firm, EverGlade Global Inc. (**EverGlade**), (ii) Mr. Morris worked with Mr. Stiles to cause BDO employees to leave and work for EverGlade, and (iii) both actions involve substantially similar legal claims including the breach of certain manager agreements. The motion to consolidate is denied with respect to the Franz Action, which is factually distinct because it involves a separate theory that those defendants developed and stored intellectual property belonging to BDO in a manner that breached their respective manager agreements.

Accordingly, it is

ORDERED that the motion is granted solely to the extent that the above-captioned action is consolidated in this Court with *BDO USA, LLP v. James Andrew Stiles, Jr.*, Index No. 652352/2020, pending in this Court; and it is further

ORDERED that the consolidation shall take place under Index No. 652352/2020 and the consolidated action shall bear the following caption:

BDO USA, LLP

Plaintiffs,

-against-

STEPHEN MORRIS AND JAMES ANDREW STILES, JR.

Defendants.

; and it is further

ORDERED that the pleadings in the actions hereby consolidated shall stand as the pleadings in the consolidated action; 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 counsel for the movant shall contact the staff of the Clerk of the Court to arrange for the effectuation of the consolidation hereby directed; and it is further

ORDERED that service of this order upon the Clerk of the Court 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 *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

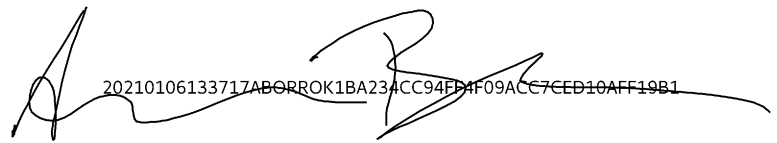
ORDERED that, as applicable and insofar as is practical, the Clerk of this Court shall file the documents being consolidated in the consolidated case file under the index number of the consolidated action in the New York State Courts Electronic Filing System or make appropriate

notations of such documents in the e-filing records of the court so as to ensure access to the documents in the consolidated action; 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 General Clerk's Office (60 Centre Street, Room 119), who is hereby directed to reflect the consolidation by appropriately marking the court's records; 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 counsel are directed to appear for a remote conference on February 26, 2021 at 12pm.


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1/6/2021
DATE

ANDREW BORROK, J.S.C.

CHECK ONE:	<input type="checkbox"/> CASE DISPOSED	<input checked="" type="checkbox"/> NON-FINAL DISPOSITION
	<input type="checkbox"/> GRANTED	<input checked="" type="checkbox"/> GRANTED IN PART
	<input type="checkbox"/> DENIED	<input type="checkbox"/> OTHER
APPLICATION:	<input type="checkbox"/> SETTLE ORDER	<input type="checkbox"/> SUBMIT ORDER
CHECK IF APPROPRIATE:	<input type="checkbox"/> INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/> FIDUCIARY APPOINTMENT
		<input type="checkbox"/> REFERENCE