

Beadell v Eros Mgt. Realty, LLC
2021 NY Slip Op 30998(U)
March 9, 2021
Supreme Court, New York County
Docket Number: 159152/2017
Judge: John J. Kelley
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**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. JOHN J. KELLEY

PART

IAS MOTION 56EFM

Justice

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VIRGINIA A. BEADELL and KAYLA GREENINGER,
Individually and as Co-Administratrix(es) of the Estate of
NOAH C. BEADELL, Deceased, and KAYLA
GREENINGER, individually,

INDEX NO. 159152/2017MOTION DATE 01/11/2021MOTION SEQ. NO. 002

Plaintiffs,

- V -

EROS MANAGEMENT REALTY, LLC, WYNDHAM HOTEL
MANAGEMENT, INC., CHRISTIAN ALDOY, and "JOHN DOE 1-
10" and "JANE DOE 1-10",

DECISION AND ORDER

Defendants.

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The following e-filed documents, listed by NYSCEF document number 55, 56, 57, 58, 59, and 60 (Motion 002)

were read on this motion to/for

CONSOLIDATION.

In this action to recover damages for negligence and wrongful death, the plaintiffs move pursuant to CPLR 602 to consolidate another action entitled *Virginia A. Beadell, et ano. v Trvp Management, Inc., et al.*, pending in the Supreme Court, New York County, under Index Number 153097/2020 (hereinafter the 2020 action), with this action (hereinafter the 2017 action). The defendants do not oppose the motion. The motion is granted.

On October 13, 2017, the plaintiffs commenced the 2017 action against Eros Management Realty, LLC (Eros), Wyndham Hotel Management, Inc. (Wyndham), and Christian Aldoy. In their complaint, the plaintiffs alleged that, on May 26, 2017, their father was a guest at the Tryp Hotel in Manhattan, a hotel operated by Wyndham in a building owned by Eros, at which Aldoy was a management-level employee. They assert that they warned those defendants that their father was exhibiting suicidal ideation and threatening to commit suicide, and requested that they monitor his behavior and call the appropriate authorities to prevent him from taking steps to commit suicide. The plaintiffs further allege that, in response to their

warnings, those defendants assumed a duty to take such steps, but failed to discharge that duty, and that their father committed suicide at the hotel in the absence of the promised supervision and intervention. The defendants deny that they assumed such a duty or that they were in any way negligent or responsible for the suicide. On May 25, 2020, after significant discovery had been conducted in the 2017 action, the plaintiffs commenced the 2020 action, naming Tryp Management, Inc., HCS Hospitality, Inc., and Ronica Sharma as defendants, alleging that these new defendants had management responsibilities at the hotel during the relevant time frame, and asserting that these new defendants were jointly responsible for the tortious conduct allegedly committed by the defendants in the 2017 action.

“Consolidation is generally favored in the interest of judicial economy and ease of decision-making where cases present common questions of law and fact, ‘unless the party opposing the motion demonstrates that a consolidation will prejudice a substantial right’” (*Raboy v McCrory Corp.*, 210 AD2d 145 [1st Dept 1994], quoting *Amtorg Trading Corp. v Broadway & 56th St. Assoc.*, 191 AD2d 212, 213 [1st Dept 1993]). The 2017 and the 2020 actions, both of which arise from the same alleged failures to monitor the decedent’s conduct and alert appropriate authorities, present common questions of law and fact (see CPLR 602; *DeSilva v Plot Realty, LLC*, 85 AD3d 422 [1st Dept 2011]; *Kern v Shandell, Blitz, Blitz & Bookson*, 58 AD3d 487 [1st Dept 2009]). Moreover, although discovery in the 2017 action is almost completed, it is anticipated that the scope of discovery in the 2020 action would be quite limited, and there is no indication that consolidation will prejudice a substantial right of any party (see *Amcan Holdings, Inc. v Torsys LLP*, 32 AD3d 337 [1st Dept 2006]). Indeed, by failing to oppose the motion, the defendants in both actions essentially concede that consolidation will not prejudice a substantial right of any party (see *Amcan Holdings, Inc. v Torsys LLP*, 32 AD3d 337 [1st Dept 2006]; *Gadelov v Shure*, 274 AD2d 375 [2d Dept 2000]).

Accordingly, it is

ORDERED that the plaintiffs' motion is granted, without opposition, and the action entitled *Virginia A. Beadell, et ano v Trvp Management, Inc., et al.*, pending in the Supreme Court, New York County, under Index Number 153097/2020, is fully consolidated into the action entitled *Virginia A. Beadell, et ano. v Eros Management Realty, LLC*, filed under New York County Index No. 159152/2017, the consolidated action shall proceed under New York County Index No. 159152/2017, and, upon completion of discovery, the plaintiff shall only be required to file one note of issue in connection with the consolidated action; and it is further,

ORDERED that the caption of the consolidated action shall read as follows:

VIRGINIA A. BEADELL and KAYLA GREENINGER,
Individually and as Co-Administratrix(es) of the Estate of
NOAH C. BEADELL, Deceased, and KAYLA
GREENINGER, individually,

Plaintiffs, Index No. 159152/2017

v

EROS MANAGEMENT REALTY, LLC, WYNDHAM
HOTEL MANAGEMENT, INC., CHRISTIAN ALDOY,
TRYP MANAGEMENT, INC., HCS HOSPITALITY, INC.,
RONICA SHARMA, "JOHN DOE 1-10," and "JANE DOE
1-10,"

Defendants.;

and it is further,

ORDERED that the plaintiffs shall serve a copy of this order with notice of entry upon the Trial Support Office (60 Centre Street, Room 158, New York, NY 10007), and shall file the notice required by CPLR 8019(c) and a completed Form EF-22 with the New York County Clerk's office, and the Trial Support Office shall thereupon amend the court records accordingly.

This constitutes the Decision and Order of the court.

3/9/2021

DATE


JOHN J. MELLEY, J.S.C.

CHECK ONE:

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CASE DISPOSED

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GRANTED

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DENIED

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NON-FINAL DISPOSITION

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GRANTED IN PART

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OTHER

APPLICATION:

☐

SETTLE ORDER

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SUBMIT ORDER

CHECK IF APPROPRIATE:

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INCLUDES TRANSFER/REASSIGN

☐

FIDUCIARY APPOINTMENT

☐

REFERENCE