

Brandon v Inline Cable Corp.
2021 NY Slip Op 31434(U)
April 28, 2021
Supreme Court, New York County
Docket Number: 153507/2020
Judge: Lisa S. Headley
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**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. LISA S. HEADLEY **PART** **IAS MOTION 22**

Justice

-----X

BARBARA BRANDON,

Plaintiff,

- v -

INLINE CABLE CORP., SAMSON NESERAB

Defendant.

-----X

INDEX NO. 153507/2020

MOTION DATE N/A, N/A

MOTION SEQ. NO. 001 001

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 001) 7, 8, 9, 10, 11, 12, 13, 14

were read on this motion to/for CHANGE VENUE.

The following e-filed documents, listed by NYSCEF document number (Motion 001) 7, 8, 9, 10, 11, 12, 13, 14

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

Upon the foregoing documents, it is **ORDERED** that the motions by defendants for a change of venue pursuant to *CPLR § 510 and CPLR § 511*, and to consolidate pursuant to *CPLR §602* are hereby granted as stated herein.

VENUE

Upon the foregoing documents, it is **ORDERED** that the motion by defendants for a change of venue pursuant to *CPLR § 510 and CPLR § 511* is granted. As plaintiff has not opposed the motion, venue of this action is moved from this Court to the Supreme Court of the State of New York, Bronx County; and it is further

ORDERED that the Clerk of this Court shall transfer the file in this action to the Clerk of the Supreme Court of the State of New York, Bronx County and shall mark the court's records to reflect such transfer; and it is further

ORDERED that within 30 days from entry of this order, counsel for movant shall serve a copy of this Order with Notice of Entry upon the Clerk of this Court, shall pay the appropriate

transfer fee, if any, and shall contact the staff of the Clerk of this Court and cooperate in effectuating the transfer; and it is further

ORDERED that the Clerk of the Court shall coordinate the transfer of the file in this action with the Clerk of the Supreme Court of the State of New York, Bronx County to ensure an efficient transfer, and to minimize, insofar as practical, the reproduction of documents, including with regard to any documents that may be in digital format; and it is further

ORDERED that such service upon the Clerk of this Court shall be made in accordance with the procedures set forth in the *Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases*.

CONSOLIDATION

Upon the foregoing documents, it is ORDERED that the defendants' motion to consolidate pursuant to *CPLR §602* is granted. Here, defendants, Inline Cable Corp. and Samson Nesorab, seek to consolidate this action, Index No.: 153507/2020 (Action #2), with a related action pending in the Supreme Court, Bronx County, bearing Index No.: 21063/2020E (Action #1). Defendants argue that both actions involve common questions of law and fact. Defendants seek to have both actions consolidated for the purposes of joint trial and discovery. Plaintiff has not opposed the motion.

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 the actions arise out of the same motor vehicle accident and involve the same parties. Plaintiff has not opposed the motion. Thus, the defendants' motion to consolidate is granted.

Here, although the defendants have moved to consolidate the actions, the more appropriate method to hear the matters is to join them, particularly since the two actions involve different plaintiffs. *Mas-Edwards v. Ultimate Servs., Inc.*, 45 A.D.3d 540, 540–41, 845 N.Y.S.2d 414, 415 (2d Dep't 2007) citing, *Perini Corp. v. WDF, Inc.*, 33 A.D.3d at 606–607, 822 N.Y.S.2d 295 (2d Dep't 2006). As such, the defendants' motion seeking consolidation is granted to the extent that the actions will be joined for trial and discovery.

Accordingly, it is

ORDERED that the defendants' motion to consolidate is GRANTED, and the action *Barbara Brandon v. Inline Cable Corp. and Samson Nesorab* Index No.: 153507/2020 (Action

#2), shall be joined with action *Eustace Williams v. Inline Cable Corp. and Samson Nesperab*, Index No.: 21063/2020E (Action #1). Therefore, Action #1 shall retain its original Index No.: 21063/20E and Action #2 shall be issued a new index number, and the joined actions shall bear the following caption:

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

EUSTACE WILLIAMS, X

Plaintiff,

Action No. 1

-against-

Index No.: 21063/2020E

INLINE CABLE CORP. and SAMSON NESERAB,
Defendants.

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

BARBARA BRANDON X

Plaintiff,

Action No. 2

-against-

Index No.: TBD

INLINE CABLE CORP. and SAMSON NESERAB,
Defendants.

_____ X

And it is further

ORDERED that the pleadings in the actions are hereby joined for the purposes of trial and discovery; and it is further

ORDERED that within 30 days from entry of this Order, counsel for movants shall serve a copy of this order with notice of entry upon all parties, on the Clerk of the Court (60 Centre Street, Room 141 B), and the Clerk of the General Clerk's Office (60 Centre Street, Room 119) who shall join the documents in these actions and shall mark the court's records to reflect the same; and it is further,

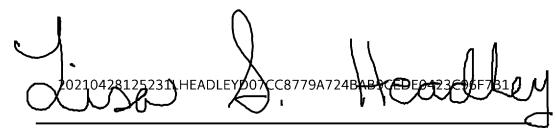
ORDERED that service of this order upon the County Clerk and the Clerk of the General Clerk's Office shall be made in accordance with the procedures set forth in the *Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases* (accessible at the "E-Filing" page on the court's website), and it is further

ORDERED that the fee for the new index number as it pertains to Action #2 is hereby waived; and it is further

ORDERED that any relief sought not expressly addressed herein has nonetheless been considered.

This constitutes the decision and order of the Court.

4/28/2021
DATE


LISA S. HEADLEY, J.S.C.

CHECK ONE:

<input checked="" type="checkbox"/>	CASE DISPOSED		
<input checked="" type="checkbox"/>	GRANTED	<input type="checkbox"/>	DENIED
<input type="checkbox"/>	SETTLE ORDER		
<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN		

<input type="checkbox"/>	NON-FINAL DISPOSITION		
<input type="checkbox"/>	GRANTED IN PART	<input type="checkbox"/>	OTHER
<input type="checkbox"/>	SUBMIT ORDER		
<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input type="checkbox"/>	REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: