

**Moran v Silverio**

2021 NY Slip Op 34283(U)

March 23, 2021

Supreme Court, Bronx County

Docket Number: Index No. 21292/2020E

Judge: Mary Ann Brigantti

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

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**CHARLENE MORAN and MORIEL  
MONTOLIO,**

**Index No. 21292/2020E**

**-against-**

**Hon. MARY ANN BRIGANTTI**

**LUIS SILVERIO and JOSE DIAZ,**

**Justice Supreme Court**

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The following papers numbered 7-9 were read on this motion (**Seq. No. 1**)  
for **CONSOLIDATION/ JOINT TRIAL**, noticed & submitted **Aug. 21, 2020.**

<b>Notice of Motion</b> - Exhibits and Affidavits Annexed	No(s). 7-9
Answering Affidavit and Exhibits - <b>No Opposition</b>	No(s).
Replying Affidavit and Exhibits	No(s).

Upon the foregoing papers, Defendant LUIS SILVERIO's motion to consolidate actions for joint trial and discovery, and related relief, is granted in the annexed memorandum decision and order.

Dated: MARCH 23, 2021 Hon. *Mary Ann Brigantti*  
**MARY ANN BRIGANTTI, J.S.C.**

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- 1. CHECK ONE.....  CASE STILL ACTIVE
  - 2. MOTION IS.....  GRANTED
  - 3. SCHEDULE APPEARANCE.....  Discovery Compliance Conference

**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX - Part 15**

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**CHARLENE MORAN and MORIEL MONTOLIO,**

**Plaintiffs,**

**"Action No. 1"**

**-against-**

**Index No.: 21292/2020E**

**LUIS SILVERIO AND JOSE DIAZ,**

**Defendants.**

-----X

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

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**STATE FARM MUTUAL AUTOMOBILE  
INSURANCE COMPANY A/S/O JOSE A. DIAZ,**

**Plaintiff,**

**"Action No. 2"**

**-against-**

**Queens Index No.: 711273/2019**

**LUIS SILVERIO,**

**Defendant.**

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**HON. MARY ANN BRIGANTTI:**

Defendant, LUIS SILVERIO, 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, December 4, 2018, in the Bronx, 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 shall be tried jointly, with the remaining pretrial proceedings, including discovery, to be held jointly, because both actions arise from the same motor vehicle accident and so involve common questions of fact and law. The trial judge may determine the sequence of proceedings at trial, and grant such other relief as is deemed just. The pleadings in the actions hereby consolidated for joint trial and discovery shall continue to stand as the pleadings.

Thus, the above-entitled "Action No. 2", bearing the caption *State Farm v Silverio*, Queens Index No. 711273/2019, is removed, from the Queens Supreme Court, to the Bronx Supreme Court, where future proceedings shall be held. CPLR § 602(b) provides as follows: "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 Queens Supreme Court, upon receipt of a certified copy of this Order, shall transfer all papers on file in the action bearing the caption, *State Farm v Silverio*, Queens Index No. 711273/2019, 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 No. 2”; and Movant shall forthwith file, and serve, an RJI, if necessary, and pay any fees therefor. The caption may read as follows:

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

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CHARLENE MORAN and MORIEL MONTOLIO,  
Plaintiffs,

-against-

LUIS SILVERIO AND JOSE DIAZ,  
Defendants.

“Action No. 1”  
Index No.: 21292/2020E

-----X

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

-----X

STATE FARM MUTUAL AUTOMOBILE  
INSURANCE COMPANY A/S/O JOSE A. DIAZ,  
Plaintiff,

-against-

LUIS SILVERIO,  
Defendant.

“Action No. 2”  
Index No.: [to be inserted]

-----X

However, there shall be a separate Note of Issue and Certificate of Readiness filed in each action.

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 Clerks in the Queens Supreme Court, who shall mark their records to reflect the consolidation for joint trial and discovery as set forth herein.

This Clerk in this Court may scheduled a joint discovery compliance conference; and the parties shall review this Part's amended rules for new procedures governing conference appearances. This constitutes the decision and order of this Court.

Dated: MARCH 23, 2021



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