

Maldonado v City of New York
2022 NY Slip Op 32215(U)
June 28, 2022
Supreme Court, New York County
Docket Number: Index No. 451877/2020
Judge: Leslie Stroth
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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. LESLIE STROTH PART 52

Justice

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INDEX NO. 451877/2020

TERESA MALDONADO,

MOTION DATE 04/20/2022

Plaintiff,

MOTION SEQ. NO. 002

- v -

THE CITY OF NEW YORK,

DECISION + ORDER ON MOTION

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 002) 23, 24, 25, 26, 27, 28, 29, 32

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

This is a motion to consolidate two related actions arising from an alleged incident that resulted in personal injuries sustained by the plaintiff on December 19, 2019, on the pedestrian plaza located near the southeast corner of West 40th Street and Broadway Avenue. The two cases involve the same alleged incident but involve different defendants. Plaintiff moves to consolidate these actions: Theresa Carino Maldonado v The City of New York, index no. 451877/2020 (Action 1), and Theresa Carino Maldonado v Fashion Center District Management Association d/b/a Garment District Alliance, index no. 151488/2022 (Action 2).

Plaintiff purportedly learned during the defendant's examination before trial in Action 1 that an additional defendant needed to be added to the case. Accordingly, plaintiff commenced Action 2 and now brings this motion in the first action to consolidate these related matters, which have common questions of law and fact, for purposes of joint trial and the conduct of discovery.

Defendants in Action 2, Fashion Center District Management Association, Inc. d/b/a Garment District Alliance (Garment District Alliance) partially oppose plaintiff's motion. Garment District Alliance does not oppose the underlying rationale for consolidation but would like an opportunity to obtain all prior discovery in the original case.

As common questions of law and fact are involved in these actions, plaintiff's motion to consolidate is granted. *See* CPLR 602. It is noted that during the pendency of this motion, the Court granted plaintiff an extension of time to file a Note of Issue with a Certificate of Readiness, and to allow for additional discovery. Additionally, a status conference has recently been held in the DCM Part regarding outstanding discovery issues on July 6, 2022. (*See* NYSCEF doc. no. 30). Given the extension of time to complete discovery, any potential prejudice resulting from granting consolidation is minimized. Further, plaintiff must provide all prior discovery from Action 1 to the parties and attorneys in Action 2.

Accordingly, it is

ORDERED that the motion is granted and the above-captioned action is consolidated in this Court with *Theresa Carino Maldonado v Fashion Center District Management Association d/b/a Garment District Alliance*, index no. 151488/2022, pending in this Court; and it is further

ORDERED that the consolidation shall take place under Index No. 451877/2020 and the consolidated action shall bear the following caption:

Theresa Carino Maldonado

Plaintiffs,

-against-

The City of New York and Fashion
Center District Management
Association d/b/a Garment District Alliance

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, within 30 days from entry of this order, movant shall provide all discovery previously provided to the parties in Action 1 (*Theresa Carino Maldonado v The City of New York*, index no. 451877/2020) to the parties in Action 2 (*Theresa Carino Maldonado v Fashion Center District Management Association d/b/a Garment District Alliance*, index no. 151488/2022); 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 status conference, to be held via electronic means, on August 3, 2022 at 4:30 p.m. in the DCM Part.

The foregoing constitutes the decision and order of the Court.

6/28/2022

DATE


LESLIE STROTH, J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE