

So Ha Chau v AC & Sons 671 Yonkers Ave, LLC
2022 NY Slip Op 33013(U)
September 9, 2022
Supreme Court, New York County
Docket Number: Index No. 152949/2021
Judge: Mary V. Rosado
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**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. MARY V. ROSADO

PART

33

Justice

-----X

SO HA CHAU,

Plaintiff,

- v -

AC & SONS 671 YONKERS AVE, LLC,

Defendant.

-----X

AC & SONS 671 YONKERS AVE, LLC

Plaintiff,

-against-

BYRON LY, ONE STOP LAUNDRY

Defendant.

-----X

INDEX NO. 152949/2021
 MOTION DATE 04/06/2022
 MOTION SEQ. NO. 001

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 001) 10, 11, 12, 13, 14, 15, 16, 17, 18, 19

were read on this motion to/for

CONSOLIDATE/JOIN FOR TRIAL

Upon the foregoing documents, and the motion being unopposed, Defendant/Third Party Plaintiff AC & Sons 671 Yonkers Ave, LLC's motion for consolidation is granted.

Pursuant to CPLR § 602(a), actions involving a common question of law or fact that are pending before a court may be ordered consolidated upon motion to avoid unnecessary costs, delay, or divergent results. Here, Defendant/Third Party Plaintiff AC & Sons 671 Yonkers Ave, LLC wishes to consolidate the instant action with an action pending in Westchester County. Both this action and the Westchester County action arose out of the same fire and have many of the same parties. The motion is unopposed. No party has asserted that they would have any substantial right prejudiced if the actions are consolidated. Moreover, there is a judicial preference in favor of

consolidation (*Progressive Ins. Co. v Vasquez*, 10 AD35 518, 519 [1st Dept 2004]). Therefore, the Court finds there is good cause to order consolidation and a joint trial of both the instant action and the Westchester Action (see *Chinatown Apts, Inc. v New York City Tr. Auth.*, 100 AD2d 824 [1st Dept 1984] [consolidation of actions arising from damage to buildings from subway fire was proper]).

Accordingly, it is hereby

ORDERED that the motion is granted and the action ASSOCIATED MUTUAL INSURANCE COOPERATIVE a/s/o 681 TERRY'S CORP., vs. AC & SONS 671 YONKERS AVE, LLC, BYRON LY AND B & T LAUNDROMAT, INC. d/b/a ONE STOP LAUNDRY , Index No. 67522/2021 , pending in the Supreme Court, Westchester County, shall be consolidated in this Court with SO HA CHAU vs. AC & SONS 671 YONKERS AVE, LLC, Index No. 152949/2021 and AC & SONS 671 YONKERS AVE, LLC as third party plaintiff against BYRON LY and ONE STOP LAUNDRY as third party defendants, Third Party Index No. 595856/2021, New York County; and it is further

ORDERED that the consolidation shall take place under New York County Index No.

152949/2021 and the consolidated action shall bear the following caption:

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

-----X
SO HA CHAU,

Plaintiff(s),

Action No. 1

-against-

Index No.: 152949/2021 ECF

AC & SONS 671 YONKERS AVE, LLC,

Defendant(s).
-----X

AC & SONS 671 YONKERS AVE, LLC,

Third-Party Plaintiff,

-against-

BYRON LY and ONE STOP LAUNDRY,

Third-Party Defendant(s).
-----X

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

-----X
ASSOCIATED MUTUAL INSURANCE COOPERATIVE
a/s/o 681 Terry's Corp.,

Plaintiff(s),

Action No. 2

-against-

Index No.: 67522/2021

AC & SONS 671 YONKERS AVE, LLC, BYRON LY and B & T LAUNDROMAT, INC. d/b/a
ONE STOP LAUNDRY,

Defendant(s).
-----X

And it is further

ORDERED that, within 30 days from entry of this order, counsel for the movant shall serve a certified copy of this order upon the Clerk of the Supreme Court, Westchester County, and shall pay the appropriate fee, if any, for such transfer and shall contact the staff of said Clerk to arrange for the effectuation of the transfer in an efficient manner; and it is further

ORDERED that service upon the Clerk of the Supreme Court, Westchester County shall be made in accordance with any applicable protocol or other procedures of said county; and it is further

ORDERED that the Clerk of the Supreme Court, Westchester County, shall transfer the documents on file under Index No. 67522/2021 to the Clerk of this Court for the purpose of consolidation; and it is further

ORDERED that the Clerk of the Supreme Court, Westchester County and the Clerk of this court shall coordinate the transfer of the documents being transferred so as to ensure an efficient transfer and to minimize insofar as practical the reproduction of such documents, including with regard to any documents that may be in digital format; 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 such service upon the Clerk of the Court shall be made in hard-copy format if the case pending in this county is a hard-copy case or, if this case is an e-filed one, 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 this 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 transferred from the Supreme Court, Westchester County in the consolidated case file under the New York County 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 upon 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 counsel are directed to appear for a preliminary conference via Microsoft teams on November 2, 2022, at 9:30 AM. Please be advised that if a draft preliminary conference order is provided to the Court prior to the conference an appearance will not be needed. The draft preliminary conference order may be emailed to bgilmartin@nycourts.gov.

This constitutes the decision and order of the Court.

9/9/2022

DATE

Mary V Rosado
HON. MARY V. ROSADO, J.S.C.

CHECK ONE:

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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