

Hugee v City of New York

2023 NY Slip Op 33763(U)

October 24, 2023

Supreme Court, New York County

Docket Number: Index No. 151350/2022

Judge: Judy H. Kim

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This opinion is uncorrected and not selected for official publication.

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

PRESENT: HON. JUDY H. KIM PART 05RCP

Justice

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FELINA HUGEE, JAYSEN OLIVER, and SHANYA BURRUSS,

Plaintiffs,

- v -

THE CITY OF NEW YORK, NEW YORK POLICE DEPARTMENT, DANIEL A. SHAW,

Defendants.

-----X

INDEX NO. 151350/2022

MOTION DATE 08/03/2023

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

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

Upon the foregoing documents, plaintiffs’ motion, pursuant to CPLR §602, to consolidate the action entitled Felina Hugee, Jaysen Oliver, and Shanya Burruss v Edwards M. Glenn, currently pending in the Supreme Court of New York, Bronx County under index number 816099/2022E (the “Bronx Action”), within the instant action, is granted without opposition.

“Consolidation is generally favored in the interest of judicial economy ... 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]). Here, the Bronx Action and the instant action arise from the same motor vehicle collision and present common questions of law and fact. Moreover, “[w]here two actions involving identical issues are pending in separate counties, the actions should be consolidated pursuant to CPLR §602 in the county where the first action was commenced absent special circumstances”

(Laureano v Rand, 2019 NY Slip Op 33440[U] [Sup Ct, New York County 2019] quoting Harrison v Harrison, 16 AD3d 206, 207 [1st Dept 2005]). As this action was commenced prior to the Bronx Action and the accident at issue occurred in New York County, the Court exercises its power pursuant to CPLR §510 and changes the venue of the Bronx Action to New York County and, upon transfer, consolidates this action within the instant action.

Accordingly, it is

ORDERED that plaintiffs’ motion is granted and the action entitled Felina Hугee, Jaysen Oliver, and Shanya Burruss v Edwards M. Glenn, pending in the Supreme Court of New York, Bronx County under index number 816099/2022E, shall be transferred to New York State Supreme Court, New York County and, upon such transfer, consolidated within the instant action; and it is further

ORDERED that the consolidation shall take place under New York County index number 151350/2022 and the consolidated action shall bear the following caption:

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

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FELINA HUGEE, JAYSEN OLIVER, and
SHANYA BURRUSS,

Index No.: 151350/2022

Plaintiffs,

-against-

THE CITY OF NEW YORK, NEW YORK POLICE
DEPARTMENT, DANIEL A. SHAW, and
EDWARDS M. GLENN,

Defendants.

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EDWARDS M. GLENN,

Third-Party Plaintiff,

-against-

DANIEL A. SHAW,

Third-Party Defendant.

-----X

and it is further

ORDERED that, within thirty days from entry of this order, counsel for plaintiffs shall serve a certified copy of this order upon the Clerk of the Supreme Court, Bronx 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, Bronx 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, Bronx County shall transfer the documents on file in Felina Hugee, Jaysen Oliver, and Shanya Burruss v Edwards M. Glenn under index number 816099/2022E to the Clerk of the Court of the Supreme Court, New York County, for the purpose of consolidation; and it is further

ORDERED that the Clerk of the Supreme Court, Bronx 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

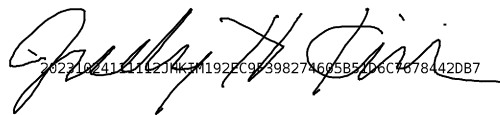
ORDERED that the pleadings in the actions hereby consolidated shall stand as the pleadings in the consolidated action; and it is further

ORDERED that, within ten days from entry of this order, counsel for plaintiffs shall serve a copy of this decision and order, with notice of entry, on the Clerk of the Court (60 Centre Street, Room 141B) and the Clerk of the General Clerk's Office (60 Centre Street, Room 119), who shall consolidate the documents in the actions hereby consolidated and shall mark their records to reflect the consolidation; and it is further

ORDERED that such service upon the Clerk of the Court 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 this court's website at the address www.nycourts.gov/supctmanh); and it is further

ORDERED that plaintiff shall serve a copy of this decision and order, with notice of entry, on all defendants herein and in the Bronx Action within fifteen days of the date of this decision and order.

This constitutes the decision and order of the Court.



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<u>10/24/2023</u> DATE			<u>HON. JUDY H. KIM, J.S.C.</u>
CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/> NON-FINAL DISPOSITION
	<input checked="" type="checkbox"/>	GRANTED	<input type="checkbox"/> GRANTED IN PART
APPLICATION:	<input type="checkbox"/>	<input type="checkbox"/> DENIED	<input type="checkbox"/> OTHER
	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/> SUBMIT ORDER
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/> FIDUCIARY APPOINTMENT
			<input type="checkbox"/> REFERENCE