

Integon Natl. Ins. Co. v Cun Gui Zheng

2024 NY Slip Op 31783(U)

May 20, 2024

Supreme Court, New York County

Docket Number: Index No. 650115/2023

Judge: Louis L. Nock

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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. LOUIS L. NOCK **PART** **38M**

Justice

-----X

INTEGON NATIONAL INSURANCE COMPANY,
Plaintiff,

INDEX NO. 650115/2023

MOTION DATE 04/19/2024

MOTION SEQ. NO. 001

- v -

CUN GUI ZHENG, YUANDAN ZHENG, SPLEN
CONSTRUCTION INC., and ANNA DESILVIO,

**DECISION + ORDER ON
MOTION**

Defendants.

-----X

The following e-filed documents, listed by NYSCEF document numbers (Motion 001, Action #1) 6, 7, 8, 9, 10, 11, 12, and 13

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

LOUIS L. NOCK, J.S.C.

The instant action, as well as an action pending before this court captioned *Integon Natl. Ins. Co. v Zheng* (index No. 655304/2023 [Sup Ct NY County] [Nock, J.]) (the “Other Action”), both arise out of an underlying personal injury action captioned *Desilvio v Zheng, et al.*, bearing Index No. 527850/2022 and pending in the Supreme Court of the State of New York, Kings County. Integon National Insurance Company, plaintiff in the above captioned declaratory judgment actions, now seeks to consolidate this action and the Other Action. Upon the foregoing documents, it is ORDERED that the motion is granted, without opposition, for the reasons set forth in the moving papers, in which the court concurs, as summarized herein.

“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” (CPLR 602). A motion to consolidate is addressed to the discretion of the court (*Cromwell v CRP 482 Riverdale Ave., LLC*, 163 AD3d 626, 627 [2d Dept 2018]). “[T]here is a preference for consolidation in the interest of judicial economy and ease of decision-making where there are common questions of law and fact, unless the party opposing the motion demonstrates that consolidation will prejudice a substantial right” (*Progressive Ins. Co. v Vasquez*, 10 AD3d 518, 519 [1st Dept 2004]). Here, the record establishes the requisite common questions of law and fact, and no party opposes the motion; and it is further

ORDERED that this action and the Other Action are consolidated in this court; and it is further

ORDERED that the consolidation shall take place under the index number of this action – Index No. 650115/2023 – and that the now-consolidated action shall bear the following consolidated caption:

“-----X

INTEGON NATIONAL INSURANCE COMPANY,
 Plaintiff,

Index No. 650115/2023

-v-

CUN GUI ZHENG, YUANDAN ZHENG, SPLEN
 CONSTRUCTION INC., and ANNA DESILVIO,

Defendants.

-----X”; and it is further

ORDERED that the pleadings filed in this action and the Other Action, now consolidated, shall stand as the pleadings in the now-consolidated action; and it is further

ORDERED that, within 30 days from the date of filing hereof, movant shall serve a copy of this order with notice of entry on the Clerk of the Court, 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); 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 (index No. 650115/2023) 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 the date of filing hereof, movant shall serve a copy of this order with notice of entry on the Clerk of the General Clerk’s Office (physically located at 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 such service upon the Clerk of the General Clerk’s Office shall be made in accordance with the procedures set forth in the aforesaid *Protocol* for efiled cases; and it is further

ORDERED that counsel are directed to appear for a preliminary conference in Room 1166, 111 Centre Street, New York, New York, on June 26, 2024, at 10:00 AM.

This constitutes the decision and order of the court.



<u>5/20/2024</u>			<u>LOUIS L. NOCK, J.S.C.</u>	
DATE				
CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION
	<input checked="" type="checkbox"/>	GRANTED	<input type="checkbox"/>	DENIED
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>	GRANTED IN PART
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	SUBMIT ORDER
			<input type="checkbox"/>	FIDUCIARY APPOINTMENT
			<input type="checkbox"/>	OTHER
			<input type="checkbox"/>	REFERENCE