

Tucker v 466 W. 149th St., LLC

2024 NY Slip Op 32889(U)

August 13, 2024

Supreme Court, New York County

Docket Number: Index No. 159913/2022

Judge: Leslie A. Stroth

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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. LESLIE A. STROTH PART 12M

Justice

-----X

SHEENA L. TUCKER,

Plaintiff,

- v -

466 WEST 149TH STREET, LLC,

Defendant.

-----X

466 WEST 149TH STREET, LLC

Plaintiff,

-against-

CITY LIGHTS CONSTRUCTION CORP

Defendant.

-----X

INDEX NO. 159913/2022

MOTION DATE 07/24/2024

MOTION SEQ. NO. 001

**DECISION + ORDER ON
MOTION**

Third-Party
Index No. 595858/2023

The following e-filed documents, listed by NYSCEF document number (Motion 001) 16, 17, 18, 19, 20, 21, 22, 23

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

Plaintiff commenced this action for injuries allegedly sustained on December 20, 2021 when she slipped and fell due to substance believed to be wet paint in a hallway located at 466 West 149th Street. Plaintiff moves here to consolidate this action with a related action *Sheena L. Tucker v City Lights Construction Corp.*, Index Number 159737/2023. Plaintiff argues that the two subject actions have identical causes of action, which arise from the December 20, 2021 accident.

Pursuant to CPLR §602(a), “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.”

The Court finds that given the common issues of law and fact that predominate in both actions, consolidation is warranted in this matter and will serve to promote judicial economy. The plaintiff is the same in each action, and each action arose out of the same slip and fall accident that allegedly occurred on December 20, 2021. Thus, plaintiff’s motion to consolidate is granted.

Accordingly, it is hereby

ORDERED that the motion is granted, and the above-captioned action is consolidated in this Court with *Sheena L. Tucker v City Lights Construction Corp.*, Index Number 159737/2023; and it is further

ORDERED that the consolidation shall take place under Index No. 159913/2022 and the consolidated action shall bear the following caption:

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SHEENA L. TUCKER,

Plaintiff,

-against-

466 WEST 149TH STREET, LLC and
CITY LIGHTS CONSTRUCTION CORP.,

Defendants.

-----X

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 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 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*.

This constitutes the decision and order of the Court.



HON. LESLIE A. STROTH
J.S.C.

DATE: 8/13/2024

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