

Torello v Morton Williams Supermarkets, Inc.

2024 NY Slip Op 33591(U)

October 7, 2024

Supreme Court, New York County

Docket Number: Index No. 159072/2021

Judge: Suzanne J. Adams

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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. SUZANNE J. ADAMS PART 39M
Justice

-----X
Torello, Don
Plaintiff,
- v -
Morton Williams Supermarkets, Inc. et al
Defendant.

INDEX NO. 159072/2021
MOTION DATE 07/29/2024
MOTION SEQ. NO. 004

**DECISION + ORDER ON
MOTION**

-----X
MARLO TOWERS OWNERS, INC., HALSTEAD
MANAGEMENT COMPANY, LLC
Plaintiff,
-against-
GRAY & WHITE HOLDING, LLC
Defendant.

Third-Party
Index No. 595408/2023

The following e-filed documents, listed by NYSCEF document number (Motion 004) 68, 69, 70, 71, 72, 73, 74, 75, 76, 77
were read on this motion to/for CONSOLIDATE/JOIN FOR TRIAL.

Upon the foregoing documents, it is ordered that defendants' motion is granted, without opposition. This matter arises out of an April 14, 2021, trip-and-fall incident which plaintiff alleges occurred at the premises located at 908 Second Avenue a/k/a 301 East 48th Street. Plaintiff commenced the instant action on October 4, 2021. Thereafter, plaintiff commenced a second action, *Don Torello v. Gray & White Holding LLC, Gray & White Markets, Inc., RBG Management Corp., Marlo-Woods, LLC, and Marlo Woods, L.P.*, currently pending in Supreme Court, New York County, under Index Number 152830/2024, arising out of the same incident and involving common questions of law and fact. Defendants now move pursuant to CPLR § 602 to

consolidate or, in the alternative, to join the above-captioned matters for the purposes of discovery and trial. There is no opposition to the motion.

“Consolidation is appropriate where it will avoid unnecessary duplication of trials, save unnecessary costs and expense and prevent the injustice which would result from divergent decisions based on the same facts.” *Chinatown Apartments, Inc. v. New York City Transit Auth.*, 100 A.D.2d 824, 825 (1st Dep’t 1984). In New York practice, “a matter is normally consolidated into the older index number” *Castillo v. Caroleo*, 2020 N.Y. Misc. LEXIS 21451, at *1 (Sup. Ct. Nassau 2020). Accordingly, it is hereby

ORDERED that defendants’ motion is granted and the above-captioned action is consolidated in this court with the action *Don Torello v. Gray & White Holding LLC, Gray & White Markets, Inc., RBG Management Corp., Marlo-Woods,, LLC, and Marlo Woods, L.P.*, bearing Index Number 152830/2024; and it is further

ORDERED that the consolidation shall take place under Index Number 159072/2021 and the consolidated action shall bear the following caption:

DON TORELLO,

Plaintiff,

-against-

MORTON WILLIAMS SUPERMARKETS, INC;
MARLO TOWERS OWNERS, INC., HALSTEAD
MANAGEMENT COMPANY, LLC, GRAY & WHITE
HOLDING LLC, GRAY & WHITE MARKETS, INC.,
RBG MANAGEMENT CORP., MARLO-WOODS, LLC,
and MARLO WOODS, L.P.,

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, movants shall serve a copy of this order with notice of entry upon all parties in the consolidated actions and 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 movants 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, movants 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 in accordance with the procedures set forth in the aforesaid *Protocol*.

This constitutes the decision and order of the court.

SA

<u>10/7/2024</u> DATE					<u>SUZANNE J. ADAMS, 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"/>	DENIED	<input type="checkbox"/>
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>	SUBMIT ORDER	<input type="checkbox"/>
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input type="checkbox"/>
					<input type="checkbox"/>
					OTHER
					REFERENCE