

Lopez v City of New York

2025 NY Slip Op 31040(U)

April 1, 2025

Supreme Court, New York County

Docket Number: Index No. 152160/2024

Judge: Hasa A. Kingo

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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. HASA A. KINGO PART 05M

Justice

-----X

SAUL LOPEZ

Plaintiff,

- v -

THE CITY OF NEW YORK,

Defendant.

-----X

INDEX NO. 152160/2024
MOTION DATE 02/25/2025
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

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

Upon the foregoing documents, it is ORDERED that Plaintiff Saul Lopez' ("Plaintiff") motion to consolidate, pursuant to CPLR § 602, is granted without opposition. Plaintiff seeks to consolidate this action, Index No.: 152160/2024 (Action #1), with a related action pending in this court, the Supreme Court, New York County, bearing Index No.: 160657/2024 (Action #2). Plaintiff argues that both actions arise from identical facts and circumstances and involve common questions of law and fact.

CPLR §602 states that "[w]hen actions involving a common question of law or fact are pending before a court, the court, upon motion ... may order the actions consolidated." A motion to consolidate is addressed to the sound discretion of the trial court (Progressive Ins. Co. v Vasquez, 10 AD3d 518, 519 [1st Dept 2004]). "There is a preference to join cases for discovery and trial in the interests of judicial economy and ease of decision-making where there are common questions of law and fact" between the two actions involved (Lema v 1148 Corp., 176 AD3d 653, 654 [1st Dept 2019]). Absent a showing of prejudice to a substantial right by a party opposing the

motion, consolidation should be granted where common questions of fact or law exist (*Lema*, 176 AD3d at 654).

Here, it is undisputed that both actions arise from an incident that occurred on November 2, 2023. Specifically, Plaintiff was descending the stairs at 524 West 42nd Street, New York, New York, when he slipped and fell. Thus, both actions arise out of the same accident and involve the same questions of law and fact. Additionally, there is no opposition to the motion and no showing of prejudice to a substantial right. Therefore, a full consolidation of the two actions would minimize court expense, as well as the time witnesses and parties will have to appear and will avoid duplication of testimony and expedite discovery. Accordingly, it is hereby

ORDERED that the motion is granted and the above-captioned action is consolidated in this court with SAUL LOPEZ vs. LESAGA HOLDINGS-522 W 42 STREET, LLC, Index No. 160657/2024 (Action #2), pending in this court; and it is further

ORDERED that the consolidation shall take place under Index No. 152160/2024 and the consolidated action shall bear the following caption:

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

-----X Index No.: 152160/2024
SAUL LOPEZ,

Plaintiff,

-against-

THE CITY OF NEW YORK and LESAGA HOLDINGS-
522 W 42 STREET, LLC,

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, 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); and it is further

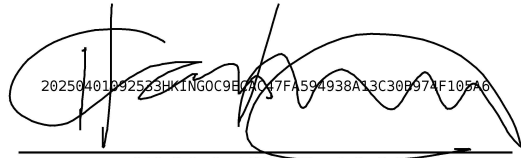
ORDERED that, as applicable and insofar as is practical, the Clerk of this Court shall file the documents being consolidated in the consolidated case file under Index No. 152160/2024 in the New York State Courts Electronic Filing System or make appropriate notations of such documents in the e-filing 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, 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*; and it is further

ORDERED that the Clerk is directed to set this matter down for a preliminary conference in the Differentiated Case Management Part on the next available date.

This constitutes the decision and order of the court.



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HASA A. KINGO, J.S.C.

4/1/2025
DATE

CHECK ONE:

CASE DISPOSED

GRANTED

DENIED

SETTLE ORDER

INCLUDES TRANSFER/REASSIGN

NON-FINAL DISPOSITION

GRANTED IN PART

SUBMIT ORDER

FIDUCIARY APPOINTMENT

OTHER

REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: