

Binns v City of New York

2025 NY Slip Op 31292(U)

April 14, 2025

Supreme Court, New York County

Docket Number: Index No. 453059/2023

Judge: Hasa A. Kingo

Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op 30001(U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.

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

ARIEL ADELAIDE BINNS,

Plaintiff,

- v -

THE CITY OF NEW YORK, 361 BROADWAY ASSOCIATES HOLDINGS, LLC, 361 BROADWAY ASSOCIATES, LLC, CAST IRON HOUSE CONDOMINIUM, THE CONDOMINIUM BOARD OF CAST IRON HOUSE CONDOMINIUM, THE BOARD OF MANAGERS OF THE CAST IRON HOUSE CONDOMINIUM, THE ANDREWS ORGANIZATION, INC.

Defendant.

-----X

INDEX NO. 453059/2023
MOTION DATE 04/10/2025
MOTION SEQ. NO. 002

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 002) 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71

were read on this motion to CONSOLIDATE.

Plaintiff seeks a true consolidation of two actions pending in this court—namely, the above-captioned action which originated with a summons and complaint filed on or about June 8, 2023, and which, following a change of venue from Kings County to New York County, has been actively litigated under a consolidation order dated October 22, 2024, and a second action commenced on November 1, 2024, and involving identical claims and parties regarding a trip, slip, and fall incident. Plaintiff further requests that, upon consolidation, all existing pleadings remain operative and that the consolidated case be managed under a single index number, thereby avoiding multiplicity of litigation and conserving judicial resources as well as the time and expense of the parties and witnesses. Plaintiff also seeks any further, additional, and different relief that this court deems just, proper, and equitable.

BACKGROUND AND PROCEDURAL HISTORY

This matter arises from a personal injury incident occurring on July 18, 2022, at 361–359 Broadway (a/k/a 67–69 Franklin Street) in New York, New York, where Plaintiff suffered bodily injuries following a trip, slip, and fall. In the above-captioned action a summons and complaint was filed on or about June 8, 2023, against the defendant, which later saw the defendant, THE CITY OF NEW YORK, join the action on or about July 14, 2023. After a notice of motion for change of venue from Kings County to New York County was filed by THE CITY OF NEW YORK—and granted on October 12, 2023—the action continued in New York County under a new index. Subsequently, on or about November 1, 2024, the Plaintiff commenced a second action by filing a separate summons and complaint, which was duly joined by defendant

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC. on November 21, 2024. A review of the pleadings and the underlying factual investigation reveals that all the actions involve identical claims arising from the same accident, thereby presenting common issues of fact and law. Recognizing that the litigation of these duplicate actions merely duplicates the efforts of the parties and the court, Plaintiff has submitted this unopposed motion for true consolidation.

DISCUSSION

The doctrine of consolidation is well established as a pragmatic tool designed to avoid multiplicity of litigation and to promote the efficient resolution of disputes involving common questions of fact. The present motion is premised on the proposition that both the above-captioned action and the second action arise from the identical trip, slip, and fall incident at 361–359 Broadway, giving rise to the same factual and legal issues regarding the alleged negligence in the maintenance of the premises. As extensively noted in *Aghabekian v. Bayside Hills Associates*, 69 AD2d 805 (2d Dept 1979), consolidation is appropriate where cases involve common questions of fact and are pending before the same court, thereby avoiding unnecessary duplication and inconsistent verdicts. Indeed, the purpose of consolidation is not only to streamline the proceedings but also to facilitate comprehensive discovery and to prevent piecemeal litigation, which serves the interests of judicial efficiency and fairness.

In the instant case, the parties' identical claims and shared evidentiary records—arising from a single accident—demonstrate that both actions are ripe for consolidation. The motion is supported by a full record, including multiple exhibits that verify the identical nature of the claims, the commonality of the accident, and the fact that there is no prejudice to any party in joining the actions. The consolidation of these actions will further prevent the duplication of efforts in both litigation and discovery, while simultaneously reducing the expense incurred by the parties and the court. Indeed, a thorough examination of the record and the supporting affidavits reveals that the fundamental rationale for consolidation is abundantly satisfied. The facts of the case unmistakably demonstrate that the underlying negligence claims arise out of a singular event that occurred on July 18, 2022, at the same location and under the same circumstances. The evidentiary foundation established in both actions involves the identical allegations against the same defendants concerning the hazardous condition on the premises that precipitated Plaintiff's injuries.

The motion's unopposed nature further substantiates the appropriateness of consolidation. With both actions involving identical causes of action and a common pool of factual evidence, the potential risks of divergent rulings or inconsistent outcomes are obviated. Consolidation not only simplifies the litigation but also ensures that discovery is conducted in a more focused and cost-effective manner—an important consideration given the potentially extensive discovery burdens in personal injury matters. The benefits of consolidation are clear: the parties avoid unnecessary duplication, witnesses are spared the inconvenience of testifying in multiple forums, and the court conserves precious judicial resources.

Accordingly, the consolidation of both actions under a single caption and index number will result in an expeditious, consistent, and fair resolution of the issues. The factual and procedural records before the court justify the grant of the motion without any material prejudice to the

defendants, as the issues in dispute have already been fully delineated in the prior pleadings and evidentiary submissions. By consolidating these actions, the court will foster a streamlined process that not only benefits the parties but also upholds the principles of judicial efficiency and equitable administration of justice. It is therefore:

ORDERED that the motion is granted and the above-captioned action is consolidated in this court with a second action pending in this Court under Index No. 160194/2024 such that all proceedings in Index No. 453059/2023 and Index No. 160194/2024 shall continue in a single consolidated action under Index No. 453059/2023; and it is further

ORDERED that the consolidation shall take place under Index No. 453059/2023 and the consolidated action shall bear the following caption:

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

-----X
ARIEL ADELAIDE BINNS,

Plaintiff,

-against-

THE CITY OF NEW YORK; 361 BROADWAY
ASSOCIATES HOLDINGS, LLC;
361 BROADWAY ASSOCIATES, LLC;
CASTIRON HOUSE CONDOMINIUM;
THE CONDOMINIUM BOARD OF CASTIRON
HOUSE CONDOMINIUM; THE BOARD OF
MANAGERS OF THE CASTIRON HOUSE
CONDOMINIUM; THE ANDREWS ORGANIZATION,
INC.; and CONSOLIDATED EDISON COMPANY
OF NEW YORK, INC.,

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 thirty (30) days from the entry of this order, the movant shall serve a copy of this order with notice of entry on the Clerk of the Court, who shall then consolidate the documents in the actions hereby consolidated and mark the records accordingly;

ORDERED that counsel for the movant shall contact the staff of the Clerk of the Court to arrange for the effective implementation of the consolidation as directed herein; and it is further

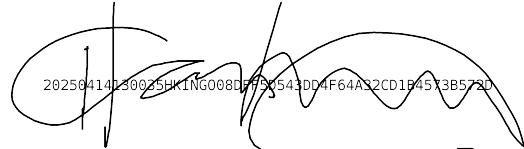
ORDERED that service of this order upon the Clerk of the Court shall be made in accordance with the procedures set forth in the Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases (accessible at the "E-Filing" page on the Court's website); and it is further

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 the index number of the consolidated action in the New York State Courts Electronic Filing System, or make appropriate notations to that effect in the e-filing records so as to ensure ready access to all pertinent documents; and it is further

ORDERED that within thirty (30) days from entry of this order, the 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, with service made in accordance with the aforementioned Protocol; and it is further

ORDERED that the Clerk of the Differentiated Case Management Part is directed to schedule this matter for a preliminary conference at the earliest available date.

This constitutes the decision and order of the court.



20250414239025HRKING008D17930543DD4F64A32CD1645X3B5720

HASA A. KINGO, J.S.C.

4/14/2025
DATE

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"/>	GRANTED IN PART	<input type="checkbox"/>
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	SUBMIT ORDER	<input type="checkbox"/>
			<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input type="checkbox"/>
					<input type="checkbox"/>
					REFERENCE