

Hazel v Morton Williams Supermarkets, Inc.

2025 NY Slip Op 31311(U)

April 16, 2025

Supreme Court, New York County

Docket Number: Index No. 158562/2024

Judge: Judy H. Kim

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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. JUDY H. KIM PART 04

Justice

-----X

JANE M HAZEL,

Plaintiff,

- v -

MORTON WILLIAMS SUPERMARKETS, INC.,

Defendant.

-----X

INDEX NO. 158562/2024

MOTION DATE 03/04/2025

MOTION SEQ. NO. 001

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 001) 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20

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

Upon the foregoing documents, plaintiff’s motion to consolidate is granted without opposition.

On September 17, 2024, plaintiff commenced this action against Morton Williams Supermarkets, Inc., alleging that on or about July 7, 2024, she was struck by a door and injured while at the Morton Williams supermarket located at 908 Second Avenue, Manhattan, New York (NYSCEF Doc No. 1, complaint at 5). On December 20, 2024, plaintiff commenced another action in New York State Supreme Court, New York County, *Jane M. Hazel v Gray & White Markets, Inc.*, under index number 162094/2024 (the “2024 Action”), based upon the same facts and asserting the same claims at issue in this action (*see* NYSCEF Doc No. 10, 2024 Action complaint).

Plaintiff now moves, pursuant to CPLR 602 to consolidate the 2024 Action within the instant action. Defendant in this action consents to the consolidation (NYSCEF Doc No. 16, Berger affirm.).

DISCUSSION

Plaintiff's motion to consolidate is granted. "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]). "Consolidation is generally favored by the courts 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. The burden of demonstrating prejudice to a substantial right is on the party opposing consolidation" (*Liz v 158-160 Vermilyea, LLC*, 58 Misc 3d 1205(A) [Sup Ct, NY County 2018] [internal citations and quotations omitted]). As it is undisputed that both actions at issue arise out of the same set of facts and common questions of law arising from plaintiff's alleged injury on July 7, 2024, plaintiff's motion is granted.

Accordingly, it is

ORDERED that plaintiff's motion to consolidate is granted and the action captioned *Jane M. Hazel v Gray & White Markets, Inc.*, pending in the New York State Supreme Court, New York County under index number 162094/2024, shall be consolidated within the instant action; and it is further

ORDERED that the consolidation shall take place under New York County index number 158562/2024; and it is further

ORDERED that the consolidated action shall bear the following caption:

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK
-----X
JANE M. HAZEL,

Plaintiff,

Index No. 158562/2024

-against-

MORTON WILLIAMS SUPERMARKETS, INC. and
GRAY & WHITE MARKETS, INC.,
Defendants
-----X

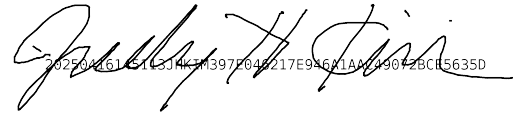
and it is further

ORDERED that, within twenty days of the date of this decision and order, plaintiff shall serve a copy of this decision and order, with notice of entry, upon all defendants as well as the Clerk of the Court (60 Centre Street, Room 141B) and the Clerk of the General Clerk's Office (60 Centre Street, Room 119) who shall consolidate the documents in the actions hereby consolidated and mark their records to reflect the consolidation, and it is further; and it is further

ORDERED that such service upon the Clerk of the Court and the Clerk of the General Clerk's Office 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 "Efiling" page on this court's website); and it is further

ORDERED that counsel are directed to appear for a preliminary conference in Room 308, 80 Centre Street, New York, New York, on May 15, 2025, at 9:30 a.m.

This constitutes the decision and order of the Court.



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4/16/2025

DATE

HON. JUDY H. KIM, J.S.C.

CHECK ONE:

CASE DISPOSED

GRANTED

DENIED

SETTLE ORDER

INCLUDES TRANSFER/REASSIGN

NON-FINAL DISPOSITION

GRANTED IN PART

OTHER

SUBMIT ORDER

FIDUCIARY APPOINTMENT

REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: