

Miranda v Phoenix Sutton Str Inc.

2025 NY Slip Op 31312(U)

April 16, 2025

Supreme Court, New York County

Docket Number: Index No. 158630/2023

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

ISRAEL MIRANDA,

Plaintiff,

- v -

PHOENIX SUTTON STR INC., 336 WEST END AVENUE
CORP.,

Defendants.

-----X

336 WEST END AVENUE CORP.,

Third-Party Plaintiff,

-against-

CENTRAL CONSTRUCTION MANAGEMENT LLC,

Third-Party Defendant.

-----X

INDEX NO. 158630/2023

MOTION DATE 01/27/2025

MOTION SEQ. NO. 002

**DECISION + ORDER ON
MOTION**

Third-Party
Index No. 595758/2024

The following e-filed documents, listed by NYSCEF document number (Motion 002) 39, 40, 41, 42, 43, 44

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

Upon the foregoing documents, plaintiff’s motion to consolidate is granted.

On August 30, 2023, plaintiff commenced this action alleging that on or about August 3, 2023, while working at the construction site at 336 West End Avenue, Manhattan, New York, he was caused to fall and sustain injuries due to the negligence of defendants (NYSCEF Doc No. 1, complaint at 6). Thereafter, defendant 336 West End Avenue Corp. commenced a third-party action against Central Construction Management LLC (“Central”), asserting claims for contribution and indemnity (NYSCEF Doc No. 21). On September 20, 2024, plaintiff commenced

an action against Central in New York State Supreme Court, New York County, under index number 158770/2024, *Israel Miranda v Central Construction Management* (the “Central Action”). Plaintiff now moves, pursuant to CPLR 602, to consolidate the Central Action within the instant action. The motion is unopposed.

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]). In this case, it is undisputed that both actions arise out of the same set of facts and involve identical questions of law regarding the alleged incident on August 3, 2023 (*see* NYSCEF Doc Nos. 41 [complaint] and 42 [Central Action complaint]).

Accordingly, it is

ORDERED that plaintiff’s motion to consolidate is granted and the action captioned *Israel Miranda v Central Construction Management LLC*, pending in the New York State Supreme Court, New York County under index number 158770/2024, shall be consolidated within the instant action; and it is further

ORDERED that, upon consolidation, 336 West End Avenue Corp.’s third-party claims against Central Construction Management LLC, shall be converted to cross-claims; and it is further

ORDERED that the consolidation shall take place under New York County index number 158630/2023; 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
ISRAEL MIRANDA,

Plaintiff,

Index No. 158630/2023

-against-

PHOENIX SUTTON STR INC. 336 WEST END
AVENUE CORP., and CENTRAL CONSTRUCTION
MANAGEMENT LLC,

Defendants.
-----X

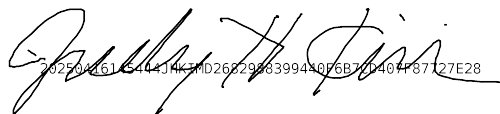
and it is further

ORDERED that plaintiff shall, within twenty days of the date of this decision and order, 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

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE