

**Padeh v City of New York**

2025 NY Slip Op 32011(U)

June 5, 2025

Supreme Court, New York County

Docket Number: Index No. 157558/2022

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

DOV PADEH,

Plaintiff,

- v -

THE CITY OF NEW YORK, EMPIRE CITY SUBWAY  
COMPANY (LIMITED),

Defendant.

-----X

**INDEX NO.** 157558/2022

**MOTION DATE** 05/16/2025

**MOTION SEQ. NO.** 003

**DECISION + ORDER ON  
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 003) 59, 60, 61, 62, 63, 64, 65

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

Upon the foregoing documents, it is ORDERED that the motion brought by Defendant Empire City Subway Company (Limited) (“ECS”) to consolidate this action, Index No.: 157558/2022 (Action #1), with a related action pending in this court, the Supreme Court, New York County, bearing Index No.: 150025/2024 (Action #2) is granted without opposition. ECS argues that consolidation pursuant to CPLR § 602 is proper because 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 May 20, 2022. Specifically, Plaintiff alleges that he was injured when he was thrown from his scooter after riding over a portion of freshly poured asphalt on West 34th Street near its intersection with Seventh Avenue. 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. Moreover, discovery is in its infancy and depositions have not been held. Therefore, a full consolidation of the two actions will minimize court expense, as well as the time witnesses and parties must appear, and will expedite discovery while avoiding duplicate testimony.

Accordingly, it is hereby

ORDERED that the motion is granted and the above-captioned action is consolidated in this court with DOV PADEH vs. CONSOLIDATED EDISON COMPANY OF NEW YORK, Index No. 150025/2024 (Action #2), pending in this court; and it is further

ORDERED that the consolidation shall take place under Index No. 157558/2022 and the consolidated action shall bear the following caption:

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

-----X Index No.: 157558/2022  
DOV PADEH,

Plaintiff,

-against-

THE CITY OF NEW YORK, EMPIRE CITY SUBWAY  
COMPANY (LIMITED), and CONSOLIDATED  
EDISON COMPANY OF NEW YORK,

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 under Index No. 157558/2022 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 parties shall appear for a status conference in the Differentiated Case Management Part located in Room 103 of 80 Centre Street, New York, New York, 10013 on July 15, 2025, at 2:00 PM.

This constitutes the decision and order of the court.

HASA A. KINGO, J.S.C.

6/5/2025  
DATE

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