

**Community Mut. Ins. Co. v ETGC Servs. Inc**

2025 NY Slip Op 34033(U)

October 17, 2025

Supreme Court, New York County

Docket Number: Index No. 150707/2025

Judge: Emily Morales-Minerva

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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. EMILY MORALES-MINERVA PART 42M

Justice

INDEX NO. 150707/2025
MOTION DATE 06/09/2025
MOTION SEQ. NO. 001
COMMUNITY MUTUAL INSURANCE COMPANY A/S/O MUHAMET LIHAREVIC, Plaintiff,

- v -

ETGC SERVICES INC D/B/A ET GENERAL CONSTRUCTION,

DECISION + ORDER ON MOTION

Defendant.

The following e-filed documents, listed by NYSCEF document number (Motion 001) 10, 11, 12, 13, 14, 15, 16

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

APPEARANCES:

Wenig & Wenig LLC, New York, NY (Alexander Jared Wenig, Esq., of counsel), for plaintiff.

Milber Makris Plousadis & Seiden, Woodbury, NY (Marianne Nicole Schott, Esq., of counsel), for defendant and third-party plaintiff.

EMILY MORALES-MINERVA, J.S.C.

In this action, defendant ETGC SERVICES INC D/B/A ET GENERAL CONSTRUCTION, moves, unopposed, by notice of motion (sequence number 01), for an order, pursuant to CPLR § 602,1 consolidating the instant action with Community Mutual Insurance Company a/s/o Carmen Rivera v ETGC Services Inc. d/b/a ET General Construction,

1 Section 602 of the CPLR provides, "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."

Index No. 150712/2025, for discovery purposes and for joint trial.

For the reasons set forth below, defendant's motion (seq. no. 01) is granted entirely.

#### BACKGROUND

On January 15, 2025, plaintiff COMMUNITY MUTUAL INSURANCE COMPANY, on behalf of subrogor MUHAMET LIHAREVIC, (plaintiff) commenced the instant action against defendant ETGC SERVICES INC D/B/A ET GENERAL CONSTRUCTION (defendant) (action 1).

Thereafter, plaintiff COMMUNITY MUTUAL INSURANCE COMPANY commenced another action against defendant, this time on behalf of plaintiff's subrogor Carmen Rivera, pursuant to Index No. 150712/2025 (L. Ramirez, J.S.C.) (action 2). In both complaints, plaintiff alleges that, on December 21, 2023, plaintiff's subrogors -- Carmen Rivera, owner of the building located at 143 9th Street in Brooklyn, and Muhamet Liharevic, owner of the building next door -- sustained property damage to their buildings as a result of an alleged fire that erupted on the roof of 143 9th Street, which was in the process of being replaced by defendant (see NYSCEF Doc. No. 001, complaint, action 1; see also NYSCEF Doc. No. 001, complaint, action 2).

Now, defendant moves, unopposed, to consolidate action 1 with action 2. In support, defendant contends that both actions

arise out of the same incident, involve common questions of law and fact, and are in the preliminary stages of discovery (see NYSCEF Doc. No. 11, affirmation in support).

#### ANALYSIS

"It is well settled that there is a preference of consolidation in the interest of judicial economy where there are common questions of law and fact" (Geneva Temps, Inc. v New World Communities, Inc., 24 AD3d 332, 334 [1st Dept 2005]; see Quik Park 808 Garage LLC v 808 Columbus Commercial Owner LLC, 199 AD3d 536, 536 [1st Dept 2021]; Grynberg v BP Expl. Operating Co. Ltd., 127 AD3d 553 [1st Dept 2015]). "Consolidation is mandated by judicial economy where two lawsuits are intertwined with common questions of law and fact" (Teitelbaum v PTR Co., 6 AD3d 254, 255 [1st Dept 2004]).

Here, the actions arise out of the same December 23, 2023 incident, involve identical causes of action, and require the same evidence (see Quik Park 808 Garage LLC, 199 AD3d at 536 [finding that consolidation was appropriate where all three actions involved common causes of action against each defendant]). Further, discovery is at its infancy in both actions. Therefore, consolidation is warranted.

Accordingly, it is hereby

ORDERED that defendant's motion (seq. no. 001) is granted entirely; it is further

ORDERED that the above-captioned action and Community Mutual Insurance Company a/s/o Carmen Rivera v ETGC Services Inc. d/b/a ET General Construction, Index No. 150712/2025, pending in this Court, are consolidated for discovery purposes and for joint trial; it is further

ORDERED that the consolidated action shall bear the following caption:

COMMUNITY MUTUAL INSURANCE COMPANY,  
A/S/O MUHAMET LIHAREVIC,  
Plaintiff, Index No. 150707/2025

-against-

ETGC SERVICES INC D/B/A ET GENERAL  
CONSTRUCTION,  
Defendant;

-----  
COMMUNITY MUTUAL INSURANCE COMPANY,  
A/S/O CARMEN RIVERA,  
Plaintiff, Index No. 150712/2025

-against-

ETGC SERVICES INC D/B/A ET GENERAL  
CONSTRUCTION,  
Defendant;

-----;  
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 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), who shall mark his records to reflect the consolidation; and it is further

ORDERED that the Clerk of Court shall transfer Community Mutual Insurance Company a/s/o Carmen Rivera v ETGC Services Inc. d/b/a ET General Construction, Index No. 150712/2025 to the Honorable Emily Morales-Minerva, J.S.C., Part 42;

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 in accordance with the procedures set forth in the aforesaid *Protocol*, who is hereby directed to reflect the consolidation by appropriately marking the court's records, and modifying the caption accordingly; and it is further

ORDERED that the parties are directed to appear for a preliminary conference before the Honorable Emily Morales-Minerva, J.S.C., in Room 574, 111 Centre Street, New York, New York on January 21, 2026, at 11:00 A.M.

THIS CONSTITUTES THE DECISION AND ORDER OF THE COURT.

10/17/2025  
DATE

  
EMILY MORALES-MINERVA, 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