

Malekan v Malekan

2025 NY Slip Op 35090(U)

December 30, 2025

Supreme Court, New York County

Docket Number: Index No. 652507/2023

Judge: Andrea Masley

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 48

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MICHAEL MALEKAN,

Plaintiff,

- v -

ALBERT MALEKAN, 466-26 SOHO LLC (NOMINAL
DEFENDANT), 75-26 SOHO LLC (NOMINAL
DEFENDANT), DAYAN 26-552, LLC, ALBERTO MAKALI,
LTD., 466-26 DELAWARE LLC, and SHAHRAM
GOLPANIAN,

Defendants.

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INDEX NO. 652507/2023

MOTION DATE _____

MOTION SEQ. NO. 012

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 012) 432, 433, 434, 435, 454, 455

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

Plaintiff Michael Malekan, on behalf of himself and four LLCs in which he is a minority member, 466-26 Soho LLC, 75-26 Soho LLC, Dayan 26-552 LLC, and 466-26 Delaware LLC, moves to consolidate this action with *Albert Malekan et al v Ooh La La, LLC, et al.*, Index No. 606465/2024 (Nassau County) (Nassau Action).

This action, filed in May 2023, was commenced by Michael Malekan individually and derivatively against Albert Malekan and Alberto Makali Ltd (AM Ltd.).¹ Michael Malekan alleges that defendants misappropriated company assets for personal use. (NYSCEF 8, Complaint; NYSCEF 347, Amended Complaint.) In their answer, Albert Malekan and AM Ltd. allege counterclaims against Michael Malekan for (1) faithless servant liability, (2) unjust enrichment, (3) conversion, (4) tortious interference with business relations, (5) unfair competition, (6) misappropriation of trade secrets, (7)

¹ Shahram Golpanian was later added as a defendant. (NYSCEF 347, Amended Complaint.)

breach of contract, and (8) breach of duty. (NYSCEF 18, Answer.) These defendants base their counterclaims on allegations that Michael Malekan breached his duties to AM Ltd. by diverting AM Ltd.'s customers, suppliers, and designs to a Michael Malekan's entity, Ooh La La, LLC.

The Nassau Action, filed in April 2024, was commenced by Albert Malekan and AM Ltd. against Ooo La La, LLC, Michael Malekan, and Judit Malekan. In the Nassau Action, Albert Malekan and AM Ltd. allege that Michael Malekan and Judit Malekan dismantled AM Ltd. and diverted AM Ltd's customers and business to Ooo La La, LLC. Albert Malekan and AM Ltd. allege claims for (1) unjust enrichment, (2) conversion, (3) tortious interference with business relations, (4) unfair competition, (5) violation of GBL § 349, (6) violation of GBL § 360-L, (7) misappropriation of trade secrets, (8) interference with business relations, and (9) fraud. (Index No. 606465/2024, NYSCEF 2, Nassau Complaint.) A preliminary conference is scheduled for January 7, 2026. (Index No. 606465/2024, NYSCEF 22, Court Notice.)

CPLR 602 (a) gives the trial court discretion to consolidate actions involving common questions of law or fact. Although great deference is to be accorded to the motion court's discretion, there is a preference for consolidation 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. (*Progressive Ins. Co. v Countrywide Ins. Co.*, 10 AD3d 518, 519 [1st Dept 2004] [citation omitted].)

Here, the claims and counterclaims of Albert Malekan and AM Ltd. are virtually identical in each action and are based on the same allegation that Michael diverted AM Ltd.'s customers and business to Ooo La La, LLC. Albert Malekan and AM Ltd. assert that consolidation is not proper because the two actions are not in the procedural posture. The court disagrees. Any discovery done in this action regarding the counterclaims

would be relevant and apply to the claims in the Nassau Action. It is not as if the parties would have to start from scratch as far as discovery is concerned. It will be easy for the Nassau Action and this action to get on the same track. Further, Albert Malekan and AM Ltd. have demonstrated no prejudice in consolidating. Accordingly, the actions are consolidated for the purpose of discovery and trial.

It is

ORDERED that the motion is granted and the action *Albert Malekan et al v Ooh La La, LLC, et al.*, Index No. 606465/2024, pending in the Supreme Court, Nassau County, shall be consolidated in this court with *Malekan v Malekan*, Index No. 652507/2023, New York County, for the purposes of discovery and joint trial; and it is further

ORDERED that, within 30 days from the date of this order, counsel for movant shall serve a certified copy of this order upon the Clerk of the Supreme Court, Nassau County, and shall pay the appropriate fee, if any, for such transfer and shall contact the staff of said Clerk to arrange for the effectuation of the transfer in an efficient manner; and it is further

ORDERED that service upon the Clerk of the Supreme Court, Nassau County shall be made in accordance with any applicable protocol or other procedures of said county; and it is further

ORDERED that the Clerk of the Supreme Court, Nassau County, shall transfer the documents on file under Index No. 606465/2024 to the Clerk of this Court for the purpose of consolidation; and it is further

ORDERED that the Clerk of the Supreme Court, Nassau County and the Clerk of this court shall coordinate the transfer of the documents being transferred so as to ensure an efficient transfer and to minimize insofar as practical the reproduction of such documents, including with regard to any documents that may be in digital format; and it is further

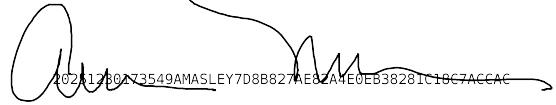
ORDERED that, within 30 days from the date of this order, movant shall serve a copy of this order with notice of entry on the Clerk of the Court, who shall consolidate the documents in the actions hereby consolidated for the purposes of discovery and joint trial and shall mark his records to reflect the consolidation; and it is further

ORDERED that such service 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 this court’s website); 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 upon the Clerk of the General Clerk’s Office, who is hereby directed to reflect the consolidation for discovery and joint trial 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 counsel are directed to appear for a conference in person, room 242, on January 13, 2026 at 12 noon instead of by email on January 21, 2026.



12/30/2025

DATE

ANDREA MASLEY, 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