

Rodriguez-Decollado v Offload LLC
2025 NY Slip Op 35607(U)
March 5, 2025
Supreme Court, Nassau County
Docket Number: Index No. 606487/2024
Judge: Denise L. Sher
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SHORT FORM ORDER

SUPREME COURT OF THE STATE OF NEW YORK

PRESENT: HON. DENISE L. SHER
Supreme Court Justice

CLARITZA RODRIGUEZ-DECOLLADO,

Plaintiff,

- against -

OFFLOAD LLC and KENNETH L. MORGAN,

Defendants.

TRIAL/IAS PART 27
NASSAU COUNTYIndex No.: 606487/2024
Motion Seq. No.: 02
Motion Date: 11/04/2024
XXX

The following papers have been read on this motion:

	Papers Numbered
Notice of Motion, Affirmation and Exhibits	1

Upon the foregoing papers, it is ordered that the motion is decided as follows:

Defendants move, pursuant to CPLR § 510, for an order changing the venue of the instant action from the Supreme Court, Nassau County, to the Supreme Court, Suffolk County; and move, pursuant to CPLR § 602, for an order joining the actions entitled *Claritza Rodriguez-Decollado v. Offload LLC, and Kenneth L. Morgan* (Action No. 2) bearing Index Number 606487/2024, presently pending in the Supreme Court, Nassau County, and *Madeline Lunz v. Luis M. Tavares, Claritza Rodriguez-Decollado, Offload LLC and Kenneth L. Morgan*. (Action No. 1) bearing Index Number 620685/2023, presently pending in the Supreme Court, Suffolk County. No opposition was submitted to the motion.

In support of the motion, counsel for defendants asserts, in pertinent part, that,

“Action No. 1 and Action No. 2 herein are actions to recover for personal injuries as a result of a motor vehicle accident, which is alleged to have occurred on July 5, 2023, at or near the intersection of Great Neck Road and Oak Street in Copiague, County of Suffolk, State of New York. Action No. 1 was commenced on or about August 17, 2023, in Supreme Court, Suffolk County, by the filing of a Summons and Verified Complaint.... Action No. 1 issue was joined by the service of an Answer by defendants, LUIS M. TAVARES and CLARITZA RODRIGUEZDECOLLADO (*sic*), on September 26, 2023.... Action No. 1 issue was joined by the service of an Answer by defendants, PORTLAND LOAD & OFFLOAD LLC i/s/h/a OFFLOAD LLC and KENNETH MORGAN, on July 3, 2024.... Action No. 2 was commenced on or about April 15, 2024, by the filing of a Summons and Complaint, in Supreme Court, Nassau County.... Action No. 2 issue was joined by the service of an Answer by defendants PORTLAND LOAD & OFFLOAD LLC i/s/h/a OFFLOAD LLC and KENNETH MORGAN, on August 22, 2024 Actions 1 and 2 arise out of the same motor vehicle accident, which is alleged to have occurred on July 5, 2023, at or near the intersection of Great Neck Road and Oak Street in Copiague, County of Suffolk, State of New York. Upon review of the plaintiffs’ Complaints and Bills of Particulars, the plaintiffs’ claims appear to sound in allegations of negligence against the moving defendants related to the same accident. Thus, from a reading of the pleadings, it will readily be seen that the alleged claims in each of the above-entitled actions arose out of the same accident. It is, therefore, apparent that in granting this motion, a multiplicity of lawsuits with their corresponding increases in cost and time are avoided. As previously discussed, the actions contain overlapping facts and legal issues. Joining both actions will not cause

any significant delay in the adjudication of any of the actions and no party will be prejudiced as a result. Depositions have not yet been held for either action. In fact, both actions are still in their initial stages, which a Preliminary Conference only recent held in Action 1 on June 20, 2023. Thus, this is an ideal time to join these actions and enter into a joint discovery Order. A joint trial order is appropriate where it will prevent the injustice that would result from divergent decisions based on the same facts. [citation omitted]. Further, a joint trial order will not result in prejudice to a substantial right of any party as discovery is just beginning. Additionally, the facts and legal issues are common across both cases. Conversely, the failure to join both actions, in addition to creating additional expense, would create the substantial possibility of inconsistent results.” See Defendants’ Affirmation in Support Exhibits A-E and G-H.

As previously indicated, no opposition was submitted to the motion.

It is well settled that a motion for consolidation is addressed to the sound discretion of the trial court and, absent a showing of substantial prejudice by the party opposing the motion, consolidation is proper where there are common questions of law and fact. *See Zupick v. Flushing Hospital and Medical Center*, 156 A.D.2d 677, 549 N.Y.S.2d 441 (2d Dept. 1989); *TT Enterprises v. Gralnick*, 127 A.D.2d 651, 511 N.Y.S.2d 878 (2d Dept. 1987); *Marshall v. Monegro Investors*, 132 A.D.2d 651, 518 N.Y.S.2d 23 (2d Dept. 1987); *Stephens v. Allstate Insurance Co.*, 185 A.D.2d 338, 586 N.Y.S.2d 305 (2d Dept. 1992).

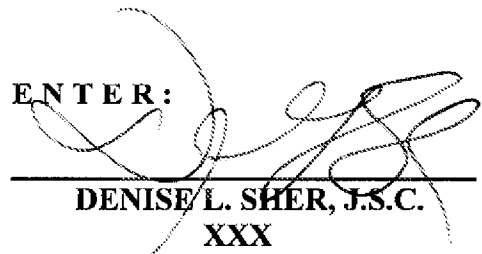
Such orders should be entered where, as here, common questions of fact and law are presented and any opponent thereto has failed to show substantial prejudice. *See Stephens v. Allstate Insurance Co., supra; Marshall v. Monegro Investors, supra; Sarrds, Inc. v. Dove Demolition Corp.*, 71 A.D.2d 1001, 420 N.Y.S.2d 292 (2d Dept. 1979).

Accordingly, defendants' motion, pursuant to CPLR § 510, for an order changing the venue of the instant action from the Supreme Court, Nassau County, to the Supreme Court, Suffolk County; and, pursuant to CPLR § 602, for an order joining the actions entitled *Claritza Rodriguez-Decollado v. Offload LLC, and Kenneth L. Morgan* (Action No. 2) bearing Index Number 606487/2024, presently pending in the Supreme Court, Nassau County, and *Madeline Lunz v. Luis M. Tavares, Claritza Rodriguez-Decollado, Offload LLC and Kenneth L. Morgan*. (Action No. 1) bearing Index Number 620685/2023, presently pending in the Supreme Court, Suffolk County, is hereby **GRANTED**.

Therefore, it is hereby directed that the venue of this proceeding is changed from Supreme Court, Nassau County, to the Supreme Court, Suffolk County, and the Clerk of the Nassau County Supreme Court is to transfer the file in the instant action to the Clerk of the Suffolk County Supreme Court upon service of a copy of this Order with Notice of Entry and payment of applicable fees, if any, and this proceeding is **stayed** until venue is so transferred.

This constitutes the Decision and Order of this Court.

ENTER:


DENISE L. SHER, J.S.C.
XXX

ENTERED

Mar 10 2025

NASSAU COUNTY
COUNTY CLERK'S OFFICE

Dated: Mineola, New York
March 5, 2025