

Community Mut. Ins. Co. v ETGC Servs. Inc
2026 NY Slip Op 31510(U)
April 6, 2026
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

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COMMUNITY MUTUAL INSURANCE COMPANY A/S/O
MUHAMET LIHAREVIC,

Plaintiff,

INDEX NO. 150707/2025

MOTION DATE 06/09/2025

MOTION SEQ. NO. 001

- v -

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

Defendant.

AMENDED
DECISION + ORDER ON
MOTION

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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 the action entitled 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, shall be joined in Part 42 for discovery and trial; it is further

ORDERED that each action shall maintain separate index numbers, separate pleadings, and separate captions, and will file separate certificates of readiness and notes of issue; and it is further

ORDERED that, within 30 days from entry of this order, plaintiff shall serve a copy of this order with notice of entry on the Clerk of the Court and the Clerk of the General Clerk's Office, who are hereby directed to mark the file accordingly; 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 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 the parties in the above-captioned action and the action entitled Community Mutual Insurance Company a/s/o Carmen Rivera v ETGC Services Inc. d/b/a ET General Construction, Index No. 150712/2025, 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 May 20, 2026 at 12:00 P.M.

THIS CONSTITUTES THE DECISION AND ORDER OF THE COURT.

04/06/2026
DATE

Emily Morales-Minerva
EMILY MORALES-MINERVA, J.S.C.

CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION
	<input checked="" type="checkbox"/>	GRANTED	<input type="checkbox"/>	GRANTED IN PART
			<input type="checkbox"/>	OTHER
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>	SUBMIT ORDER
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	FIDUCIARY APPOINTMENT
			<input type="checkbox"/>	REFERENCE