

Phoenix Life Ins. Co. v Town of Oyster Bay
2017 NY Slip Op 33253(U)
November 30, 2017
Supreme Court, Nassau County
Docket Number: 605451/2016
Judge: Linda S. Jamieson
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This opinion is uncorrected and not selected for official publication.

To commence the statutory time period for appeals as of right (CPLR § 5513 [a]), you are advised to serve a copy of this order, with notice of entry, upon all parties.

Disp ___ Dec x Seq. Nos. 2-3/1-2 Type stay

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

-----X
PHOENIX LIFE INSURANCE COMPANY,

Plaintiff,

Index No. 605451/2016

DECISION AND ORDER

-against-

TOWN OF OYSTER BAY,

Defendant.

-----X
TOWN OF OYSTER BAY,

Plaintiff,

Index No. 606132/2017

DECISION AND ORDER

-against-

HARENDRA SINGH, S.R.B. CONVENTION &
CATERING CORP., SRB CONCESSION, INC.,
HVS TAPPAN BEACH, INC., RUBY SINGH,
FREDERICK MEI, HARRIS BEACH, PLLC, WILLIAM
J. GARRY, PHOENIX LIFE INSURANCE CO., and
PHL VARIABLE INSURANCE CO.,

Defendants.

-----X
The following papers numbered 1 to 13 were read on these motions:

<u>Paper</u>	<u>Number</u>
Notice of Motion	1
Affirmation and Exhibits	2
Memorandum of Law	3
Notice of Motion and Memorandum ¹	4

¹This document is neither an affirmation nor is it a memorandum of law. Instead, it is just labeled a "motion."

Affirmation in Partial Opposition	5
Response and Partial Opposition	6
Reply Affirmation	7
Notice of Motion and Memorandum	8
Notice of Motion	9
Affirmation and Exhibits in Support	10
Memorandum of Law	11
Response and Partial Opposition	12
Reply Affirmation	13

There are four motions before the Court in these two cases arising out of a series of transactions among the parties in which serious sums of money were involved. Although the two actions are not (yet) consolidated,² the Court decides these motions together for practical purposes. There are two virtually identical motions in each action. In the Phoenix case, the first motion is filed by non-parties Harris Beach, PLLC and William Garry (collectively, "Harris Beach"). It seeks a protective order staying any proceedings concerning four subpoenas served on them pending the completion of a criminal trial scheduled to start on January 16, 2018 in the Eastern District of New York (the "criminal trial"). The second motion in the Phoenix case, filed by the Acting United States Attorney for the Eastern

²In a conference on the *Phoenix Life Insurance Company* ("Phoenix") case, Index No. 605451/2016, on November 20, 2017, both parties agreed with the Court that these cases should be consolidated at some point in the near future.

District of New York (the "Government") seeks both to intervene in the action and to stay the proceedings pending the commencement of the criminal trial, but to allow certain discovery in the meantime.

In the action filed by the Town of Oyster Bay (the "Town"), Index No. 606132/2017, there are two similar motions. The first motion, filed by Harris Beach, seeks to stay the action. The second motion, filed by the Government, seeks to intervene and to stay the proceedings.

On November 20, 2017, the Court held a conference in the Phoenix action. Counsel for these parties appeared, and explained to the Court that all of the parties (and the Government) in both actions agree to the stay of both actions. The Court concurs. The only issue appears to be the duration of the stay. At this point, the Court will only stay these cases until a verdict is rendered. Should something occur to suggest a modification of this either way, the Court will entertain a motion to lift or extend the stay.

With respect to discovery, the Court discussed it with the parties in the Phoenix case, and resolved that they would each make initial document productions, including written responses, by December 6, 2017. Any followup requests would be stayed as provided above.

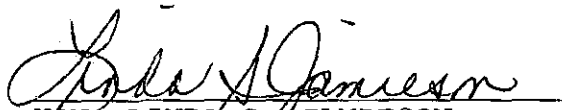
A review of the Government's motions in these two cases

indicates that the sole purpose for its requests to intervene appears to be to enable it to make the motions for the stays. Since the Court has granted the stays based on the motions of Harris Beach, there does not appear to be any need for the Government to intervene in either action. Accordingly, the motions to intervene are denied without prejudice.

The next appearance in these actions is set for February 15, 2018 at 9:30 a.m. All parties on both cases shall appear. Plaintiffs in each case shall send copies of this Decision and Order to all defendants in their respective cases by overnight mail within two business days of receipt.

The foregoing constitutes the decision and order of the Court.

Dated: White Plains, New York
November 30, 2017


HON. LINDA S. JAMIESON
Justice of the Supreme Court

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