

Garcia v Petore Assoc., Inc.

2017 NY Slip Op 32186(U)

September 15, 2017

Supreme Court, Bronx County

Docket Number: 304226/2015

Judge: Lucindo Suarez

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Court/County: _____

Case Title: _____

Docket Number: 03042262015Judge: Lucindo Suarez

EXPERT(s): _____

File date: _____ Type: _____

Doc Reviewer April Llave

Mark the Correct Category	Doc Label (LBL) or Category		Doc Description
	Motion Order	_MO	LBLX
	Trial Order	_TO	LBLX
	Trial Pleading	_TP	LBLX
	Trial Motion, Memorandum, and Affidavit	_TM	LBLX
	Interrogatories	_IN	Questions only or questions and answers
	Trial Deposition and Discovery	_TD	Reports (JV ONLY) Requests for production of documents (JV ONLY) Depositions (FULL) (JV partials OK) Civil deposition affidavits
	Trial Filing	_TF	Statements Reports
	Original Transcript	_OT	Transcripts of hearings and trials (FULL)
	Verdict, Agreement and Settlement (actuals)	_VS	Verdict forms submitted to jury Signed settlement agreements with no attached order Signed stipulations with no attached order Signed plea agreements with no attached order
	Jury Instruction (actual)	_JI	Proposed and submitted jury instructions
	Expert Depositions	_ED	FULL
	Expert Transcripts	_ET	FULL
	Partial Expert Testimony	_EP	Partial Depos or Transcripts
	Expert Report and Affidavit	_ER	Expert Reports Expert Affidavits
	Proposed Order, Agreement, and Settlement	_PR	(ALL are JV ONLY) Proposed trial order Proposed plea agreement Proposed settlement agreement Proposed verdicts Proposed judgments Findings with proposed orders Stipulations with proposed orders Unsigned stipulations; Unsigned findings; Unsigned orders or verdict sheets
	Paper Only	_PO	Letters, Correspondence, other docs as instructed (JV and Court Express Archive)
	CV	_CV	Curriculum Vitae

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX: PART LPM

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YHUNIOR GARCIA TINEO and BELKIS REINOSO
GARCIA,

DECISION AND ORDER

Plaintiffs,

Index No. 304226/2015

- against -

PETORE ASSOCIATES, INC., PETORE ASSOCIATES,
LLC, PETORE DESIGN & CONSTRUCTION, PETORE
DESIGN & CONSTRUCTION, INC., CENTRAL
PLAZA ASSOCIATES, BURLINGTON COAT
FACTORY DIRECT CORPORATION, BURLINGTON
COAT FACTORY OF NEW YORK, LLC,
BURLINGTON COAT FACTORY WAREHOUSE
CORPORATION, BURLINGTON COAT FACTORY
REALTY OF YONKERS, INC.,

Defendants.

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PRESENT: Hon. Lucindo Suarez

Upon the notice of motion dated August 17, 2017 of defendants Petore Associates, Inc., Petore Associates, LLC, Petore Design & Construction, Petore Design and Construction, Inc., Burlington Coat Factory Direct Corporation, Burlington Coat Factory of New York, LLC, Burlington Coat Factory Warehouse Corporation, Burlington Coat Factory Realty of Yonkers, Inc. and the affirmation and exhibits submitted in support thereof; the notice of cross-motion dated August 22, 2017 of defendants Burlington Coat Factory Warehouse of Yonkers, Inc. and Burlington Coat Factory of Texas and the affirmation and exhibits submitted in support thereof; and due deliberation; the court finds:

Defendants Petore Associates, Inc., Petore Associates, LLC, Petore Design & Construction, Petore Design and Construction, Inc., Burlington Coat Factory Direct Corporation, Burlington Coat Factory of New York, LLC, Burlington Coat Factory Warehouse Corporation, Burlington Coat Factory Realty of Yonkers, Inc. move and defendants Burlington Coat Factory Warehouse of Yonkers, Inc. and

Burlington Coat Factory of Texas cross-move to consolidate four actions commenced in this county by plaintiffs Yhnuior Garcia Tineo and Belkis Reinoso Garcia.

CPLR 602(a) provides that the court may order the consolidation of actions that involve common questions of law or fact. “[C]onsolidation is generally favored by the courts 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.” *Amcan Holdings, Inc. v. Torys LLP*, 32 A.D.3d 337, 339, 821 N.Y.S.2d 162, 165 (1st Dep’t 2006). Movants have demonstrated that each action arises out of the same October 2, 2014 incident and that each complaint alleges claims for negligence and under the Labor Law. Plaintiffs and none of the answering defendants have submitted opposition.

Accordingly, it is

ORDERED, that the motion of defendants Petore Associates, Inc., Petore Associates, LLC, Petore Design & Construction, Petore Design and Construction, Inc., Burlington Coat Factory Direct Corporation, Burlington Coat Factory of New York, LLC, Burlington Coat Factory Warehouse Corporation, Burlington Coat Factory Realty of Yonkers, Inc. and the cross-motion of defendants Burlington Coat Factory Warehouse of Yonkers, Inc. and Burlington Coat Factory of Texas for an order of consolidation under CPLR 602 is granted; and it is further

ORDERED, that *Tineo v. Petore Associates, Inc.*, Index No. 304226/2015, shall be consolidated with *Tineo v. Ackrick Associates, L.P.*, Index No. 25016/2016E), *Tineo v. Acklinis Realty Holding, LLC*, Index No. 300366/2017, and *Tineo v. Acklinis Original Building, LLC*, Index No. 300753/2017), under Index No. 304226/2015; and it is further

ORDERED, that the consolidated caption shall read as follows:

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

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YHUNIOR GARCIA TINEO and BELKIS REINOSO
GARCIA,

Index No. 304226/2015

Plaintiffs,

- against -

PETORE ASSOCIATES, INC., PETORE ASSOCIATES, LLC, PETORE DESIGN & CONSTRUCTION, PETORE DESIGN & CONSTRUCTION, INC., CENTRAL PLAZA ASSOCIATES, BURLINGTON COAT FACTORY DIRECT CORPORATION, BURLINGTON COAT FACTORY OF NEW YORK, LLC, BURLINGTON COAT FACTORY WAREHOUSE CORPORATION, BURLINGTON COAT FACTORY REALTY OF YONKERS, INC., ACKRICK ASSOCIATES, L.P., ACKLINIS REALTY HOLDING, LLC, ACKLINIS YONKERS REALTY, LLC, YONKERS REALTY ASSOCIATES, 2500 CPA ASSOCIATES, LLC, ACKLINIS ORIGINAL BUILDING, .L.L.C., BURLINGTON COAT FACTORY WAREHOUSE OF YONKERS, INC., BURLINGTON COAT FACTORY OF TEXAS, INC., and LEVITZ FURNITURE, LLC,

Defendants.

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and it is further;

ORDERED, that the pleadings in the actions hereby consolidated shall stand as the pleadings in the consolidated action; it is further

ORDERED, that upon service on the Clerk of this Court of a copy of this order with notice of entry, the Clerk shall consolidate the papers in the actions hereby consolidated and shall mark his records to reflect the consolidation; and it is further

ORDERED, that a copy of this order with notice of entry shall also be served upon the Clerk of the Motion Support Office (Room 217), who is hereby directed to mark the court's records to reflect the consolidation; and it is further

ORDERED, that the action filed under Index No. 25016/2016E is hereby removed from the E-

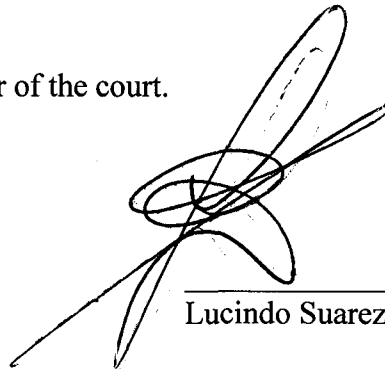
file inventory, access to E-filing under such index number shall be closed and all service and filing shall be in hard copy; and it is further

ORDERED, that the Bronx County Clerk is directed to convert the records of the action filed under Index No. 25016/2016E to hard copy format, and it is further

ORDERED, that the parties shall appear for a compliance conference on October 10, 2017 at 9:30 a.m. in the Labor Law, Products Liability and Non-Medical Professional Malpractice Part, courtroom 411.

This constitutes the decision and order of the court.

Dated: September 15, 2017

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

Lucindo Suarez, J.S.C.