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| Lee v County of Nassau |
| 2017 NY Slip Op 32983(U) |
| June 27, 2017 |
| Supreme Court, Nassau County |
| Docket Number: 600775/15 |
| Judge: Antonio I. Brandveen |
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ORIGINAL

SHORT FORM ORDER

SUPREME COURT - STATE OF NEW YORK

Present: ANTONIO I. BRANDVEEN
J. S. C.

HELENE LEE,

Plaintiff,

- against -

COUNTY OF NASSAU, TOWN OF
HEMPSTEAD and NATIONAL GRID
ENERGE SERVICES, LLC,

Defendant.

TRIAL / IAS PART 31
NASSAU COUNTY

Index No. 600775/15

Motion Sequence No. 002

HELENE LEE,

Plaintiff,

- against -

CVS ALBANY, L.L.C. and JATO BUILDERS,
INC d/b/a JATO BUILDING CONTRACTORS,
INC.,

Defendant.

Index No. 605178/16

The following papers having been read on this motion:

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| Notice of Motion, Affidavits, & Exhibits | <u>1</u> |
| Answering Affidavits | _____ |
| Replying Affidavits | _____ |
| Briefs: Plaintiff's / Petitioner's | _____ |
| Defendant's / Respondent's | _____ |

The plaintiff, Helene Lee, moves (Action No. 1, index number 600775/2015) pursuant to CPLR 602 and 1002(b) consolidating Actions No. 1 and 2 in the Supreme Court of Nassau County for joint trial and discovery. The plaintiff, Helene Lee, moves (Action No. 2, index number 605178/2016) pursuant to CPLR 602 and 1002(b) consolidating Actions No. 1 and 2 in the Supreme Court of Nassau County for joint trial and discovery.

The plaintiff commenced the Action No. 1 against the County of Nassau, Town of Hempstead and National Grid Energy Services, Inc. on or about February 16, 2015, seeking damages for personal injuries sustained in an accident on November 8, 2013. The plaintiff commenced the Action No. 2 against CVS Albany, L.L.C. and Jato Builders, Inc. d/b/a Jato Contractors, Inc. on or about August 25, 2016, seeking damages for personal injuries sustained as a resulting of the same accident in Action No. 1.

The defendant in Action No. 2, Jato Builders, Inc. d/b/a Jato Contractors, Inc., partially opposes the plaintiff's motion to consolidate. Jato Builders, Inc. d/b/a Jato Contractors, Inc. has no objection to consolidation or a joint trial, but opposes the motion insofar that it seeks to consolidate the second action into the first action. Jato Builders, Inc. d/b/a Jato Contractors, Inc. asserts it is unaware of how much discovery has been exchanged in the first action. Jato Builders, Inc. d/b/a Jato Contractors, Inc. avers it knows the plaintiff's bill of particulars and combined discovery response were served, and several authorizations for the plaintiff's medical records were provided to the County

of Nassau, Town of Hempstead and National Grid Energy Services, Inc. in Action No. 1.

Jato Builders, Inc. d/b/a Jato Contractors, Inc. notes several court conferences were held in Action No. 1 and the date passed for the note of issue on January 13, 2017. Jato Builders, Inc. d/b/a Jato Contractors, Inc. maintains its concern is being forced to trial before discovery is complete in Action No. 2, and points out the bill of particulars in Action No. 2 has not been served, notwithstanding Jato Builders, Inc. d/b/a Jato Contractors, Inc. served various demands on or about December 21, 2016. Jato Builders, Inc. d/b/a Jato Contractors, Inc. adds Helene Lee, in Action No. 2, has not provided any authorizations, and Jato Builders, Inc. d/b/a Jato Contractors, Inc. has not had an opportunity to obtain or review any medical records.

Jato Builders, Inc. d/b/a Jato Contractors, Inc. requests Action No. 1 be consolidated into Action No. 2, so that a preliminary conference can be held. Jato Builders, Inc. d/b/a Jato Contractors, Inc. asks that a preliminary conference be held to set a note of issue date and a deposition schedule to allow for the fair and just exchange of discovery.

The Court determines the plaintiff satisfies the burden for joint trial and discovery in Actions No. 1 and 2 (CPLR 602). The plaintiff provides a showing that both actions emerge from one accident, and the matters to decide are the alike regarding both actions. The plaintiff demonstrates the witnesses and the parties in both actions are similar. Moreover, a joint trial and joint discovery will minimize judicial and litigation time and

expense.

Accordingly, it is ORDERED that the motion to consolidate Action No.1 and Action No.2 for joint trial and discovery is granted.

The court granted an identical motion of consolidate these action under Index No. 600775/15.

This decision will constitute the order of the Court.

So ordered.

Dated: **June 27, 2017**

ENTER:



J. S. C.

NON FINAL DISPOSITION

ENTERED

JUL 06 2017

NASSAU COUNTY
COUNTY CLERK'S OFFICE