

Herbert v Turner

2018 NY Slip Op 31441(U)

June 29, 2018

Supreme Court, New York County

Docket Number: 452640/2017

Judge: Adam Silvera

Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op 30001(U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.

This opinion is uncorrected and not selected for official publication.

**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. ADAM SILVERA PART IAS MOTION 22

Justice

-----X

INDEX NO. 452640/2017

ANGELA HERBERT,

MOTION DATE 06/20/2018

Plaintiff,

MOTION SEQ. NO. 001

- v -

TRINNA TURNER, GORDON HENRY

Defendant.

DECISION AND ORDER

-----X

The following e-filed documents, listed by NYSCEF document number (Motion 001) 23, 24 were read on this motion to/for CONSOLIDATE/JOIN FOR TRIAL.

Upon the foregoing documents, it is ordered that this motion for consolidation, by defendant Trimma T. Turker, is granted. Defendant moves to consolidate this personal injury action with another action currently pending in the Supreme Court, Queens County, in which she is the plaintiff (Trinna T. Turner v Gordon H. Henry, index no. 1721/17), arguing that the two actions arise out of the same accident and have common parties. CPLR §602(a) states that “[w]hen actions involving a common question of law or fact are pending before a court, the court, upon motion ... may order the actions consolidated”. No opposition has been filed. It is undisputed that the actions arise out of the same motor vehicle accident and involve many of the same parties. Thus, defendant’s motion to consolidate is granted to the extent that these actions are joined for discovery and trial. Each action shall maintain separate pleadings, captions, and index numbers, with separate certificates of readiness and notes of issue.

Accordingly, it is

ORDERED that the motion is granted and the action Trinna T. Turner v Gordon H. Henry, Index No. 1721/17, pending in the Supreme Court, Queens County, shall be consolidated

in this Court with Angela Herbert v Trinna T. Turner and Gordon E. Henry, Index No. 452640/17, New York County; and it is further

ORDERED that a separate index number be given to the action Trinna T. Turner v Gordon H. Henry being transferred from the Supreme Court, Queens County, to this Court upon payment of the appropriate fees, if any, and it is further

ORDERED that, within 30 days from entry of this order, counsel for the movant shall serve a certified copy of this order upon the Clerk of the Supreme Court, Queens County, and shall pay the appropriate fee, if any, for such transfer and shall contact the staff of said Clerk to arrange for the effectuation of the transfer in an efficient manner; and it is further

ORDERED that service upon the Clerk of the Supreme Court, Queens County shall be made in accordance with any applicable protocol or other procedures of said county; and it is further

ORDERED that the Clerk of the Supreme Court, Queens County, shall transfer the documents on file under Index No. 1721/17 to the Clerk of this Court for the purpose of consolidation; and it is further

ORDERED that the Clerk of the Supreme Court, Queens County and the Clerk of this court shall coordinate the transfer of the documents being transferred so as to ensure an efficient transfer and to minimize insofar as practical the reproduction of such documents, including with regard to any documents that may be in digital format; and it is further

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

ORDERED that, within 30 days from entry of this order, movant shall serve a copy of this order with notice of entry on the Clerk of the Court (60 Centre Street, Room 141 B), who

shall consolidate the documents in the actions hereby consolidated and shall mark his records to reflect the consolidation for joint discovery and trial; and it is further

ORDERED that such service upon the Clerk of the Court shall be made in hard-copy format if the case pending in this county is a hard-copy case or, if this case is an e-filed one, shall be made in accordance with the procedures set forth in the *Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases* (accessible at the “E-Filing” page on this court’s website at the address www.nycourts.gov/supctmanh); and it is further

ORDERED that, as applicable and insofar as is practical, the Clerk of this Court shall file the documents transferred from the Supreme Court, Queens County in the consolidated case file under the New York County Index Number of the consolidated action in the New York State Courts Electronic Filing System or make appropriate notations of such documents in the e-filing records of the court so as to ensure access to the documents in the consolidated action; and it is further

ORDERED that, within 30 days from entry of this order, movant shall serve a copy of this order with notice of entry upon the Clerk of the General Clerk’s Office (60 Centre Street, Room 119), who is hereby directed to reflect the consolidation by appropriately marking the court’s records; and it is further

ORDERED that such service upon the Clerk of the General Clerk’s Office shall be made in hard-copy format if the case pending in this county is a hard-copy case or, if the case pending here is an e-filed one, shall be made in accordance with the procedures set forth in the aforesaid *Protocol*; and it is further

ORDERED that counsel are directed to appear for a previously scheduled compliance conference in Room 103 of 80 Centre Street, New York, New York, on July 23, 2018 at 9:30am.

This constitutes the Decision/Order of the Court.



6/29/2018

DATE

ADAM SILVERA, J.S.C.

CHECK ONE:

<input type="checkbox"/>
<input checked="" type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

CASE DISPOSED

GRANTED

SETTLE ORDER

INCLUDES TRANSFER/REASSIGN

DENIED

<input checked="" type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

NON-FINAL DISPOSITION

GRANTED IN PART

SUBMIT ORDER

FIDUCIARY APPOINTMENT

OTHER

REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: