

Brand v Colas

2018 NY Slip Op 32906(U)

November 13, 2018

Supreme Court, New York County

Docket Number: 157224/2018

Judge: Adam Silvera

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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

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INDEX NO. 157224/2018
GENNA BRAND, MOTION DATE 10/22/2018
Plaintiff, MOTION SEQ. NO. 001
- v -

DELVA COLAS, MEIMEI LAU, JONATHAN RESNICK
Defendant.

DECISION AND ORDER

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 11, 12, 13, 14, 15, 16, 17, 18
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 Jonathan Resnick is granted. Defendant moves to consolidate this personal injury action with an action for property damages currently pending in the Civil Court, Kings County, (Lau Meimei and Delva Colas v Jennifer Resnick and Jonathan Resnick, index no. 13940/18), arguing that the two cases 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 it appearing to this court that the Civil Court of the City of New York,

County of Kings, does not have jurisdiction to grant the full relief to which the parties are entitled in the case of Lau Meimei and Delva Colas v Jennifer Resnick and Jonathan Resnick, index no. 13940/18, pending in that court, the motion of defendant herein to remove said action to this court pursuant to CPLR 325(b) and to consolidate that action with this one is granted; and it is further

ORDERED that, within 30 days from entry of this order, counsel for movant shall serve a certified copy of this order upon the Clerk of the Civil Court, Kings County and shall contact the Clerk to arrange for the effectuation of this transfer in an efficient manner; and it is further

ORDERED that the Clerk of the Civil Court, Kings County shall, upon such service and the payment of the appropriate fee, if any, transfer to this court all of the papers heretofore filed in said action in that Court; and it is further

ORDERED that said Civil Court action shall be consolidated with this action as indicated above, and the County Clerk to issue a separate index number to the Civil Court action, upon service and the payment of any fees; and it is further

ORDERED that the caption of the consolidated action shall be the following:

GENNA BRAND,	Plaintiff,	Action No. 1
-against-		Index No. 157224/18
DELVA COLAS, MEIMEI LAU, and JONATHAN RESNICK,	Defendants.	
LAU MEI MEI and DELVA COLAS,	Plaintiffs,	Action No. 2
-against-		Index No.
JENNIFER RESNICK and JONATHAN RESNICK,	Defendants.	

and it is further

ORDERED that the Clerk of this Court shall consolidate the documents transferred under the index number of the consolidated action; 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 the Clerk of the Civil Court 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 documents, including with regard to documents in digital format; and it is further

ORDERED that, as applicable and insofar as practical, the Clerk of this Court shall file the documents transferred from the Civil Court in the consolidated case file under the New York County Index Number thereof in the New York State Courts Electronic Filing System or make appropriate notations with regard to said 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, counsel for movant shall serve a copy of this order with notice of entry upon the Clerk of this Court (60 Centre Street, Room 141B) and the Clerk of the General Clerk's Office (60 Centre Street, Room 119), who shall mark their records to reflect this consolidation; and it is further

ORDERED that such service upon the Clerk of this Court and the Clerk of the General Clerk's Office 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 the court's website at the address www.nycourts.gov/suptctmanh); and it is further

ORDERED that discovery in this action is to proceed expeditiously; and it is further

ORDERED that all counsel are directed to appear for a previously scheduled preliminary conference on January 23, 2019 at 9:30am, in room 103 of 80 Centre Street, New York, NY.

This constitutes the Decision/Order of the Court.

11/13/2018

DATE

ADAM SILVERA, J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE