

<b>Haygood v Prince Holdings 2012, LLC</b>
2021 NY Slip Op 31535(U)
May 6, 2021
Supreme Court, New York County
Docket Number: 155091/2016
Judge: Alexander M. Tisch
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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. ALEXANDER M. TISCH PART IAS MOTION 18EFM

Justice

JONATHAN HAYGOOD,
Plaintiff,

Plaintiff,

- v -

PRINCE HOLDINGS 2012, LLC, STEVEN CROMAN,
HARRIET CROMAN, OREN GOLDSTEIN, JANETH
DONOVAN,

Defendants.

INDEX NO. 155091/2016
MOTION DATE 07/03/2021
MOTION SEQ. NO. 004

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 004) 128, 129, 130, 131 were read on this motion to/for CONSOLIDATE/JOIN FOR TRIAL

Upon the foregoing documents, plaintiff moves to restore a related matter to active status, a joint trial (or re-trial) with the same, and related relief.

It is clear that the related matter, Ruggerino v Prince Holdings 2012, LLC, index number 156640/2016, was never disposed. Although defendants argue that the motion to restore should be made under that index number, this motion seeks the related relief of a joint trial and is properly made under this index number, as notice to all parties in both matters was properly provided.

"When actions involving a common question of law or fact are pending before a court, the court, upon motion, may order a joint trial of any or all the matters in issue, may order the actions consolidated, and may make such other orders concerning proceedings therein as may tend to avoid unnecessary costs or delay" (CPLR 602[a]). "Where common questions of law or fact exist," the motion "should be granted absent a showing of prejudice to a substantial right by the party opposing the motion" (Longo v Fogg, 150 AD3d 724, 725 [2d Dept 2017]). "Although

the trial court's discretion in determining a motion for a joint trial is wide, the interests of justice and judicial economy are better served by joint trials wherever possible” (Megyesi v Automotive Rentals, Inc., 115 AD2d 596, 596 [2d Dept 1985]).

Here, the plaintiffs in both matters seek rent overcharges based upon an alleged unlawful “high rent vacancy” deregulation, involve the same apartment building and same defendants/landlord. With overlap of witnesses, the Court finds that it would avoid unnecessary costs and delays to have a joint trial so that the witnesses testify during one scheduled appearance, as a couple of them had overlapped in the previous trial proceedings (e.g., Yow, O’Sullivan, and Croman). The Court does not find that it would be confused by hearing the issues on both cases, or improperly use evidence submitted regarding one apartment as if it also pertained to the other. The Court, in its discretion in managing this nonjury trial, will ensure that the matters are dealt with separately as necessary.

The balance of plaintiff’s motion, seeking to incorporate and adopt pre-trial rulings and orders in the previous trial is denied. The pre-trial order issued by Judge Feinman (NYSCEF Doc. No. 94) will not be applicable. Most of the directives set forth therein are already codified in Part 202 of the Uniform Rules for Trial Courts, and the Court will rely on these rules and any other directives **as indicated below / set forth in a separate pre-trial order.**

Accordingly, it is hereby ORDERED that the motion is granted in part as set forth herein; and it is further

ORDERED that *Ruggerino v Prince Holdings 2012, LLC*, index number 156640/2016, is hereby restored to active status; and it is further

ORDERED that the above-captioned action shall be jointly tried with *Ruggerino v Prince Holdings 2012, LLC*, index number 156640/2016, pending in this Court; and it is further

ORDERED that, within 30 days from entry of this order, counsel for plaintiff in this matter shall serve a copy of this order with notice of entry upon the General Clerk's Office (60 Centre Street, Room 119) and the Clerk of the General Clerk's Office shall restore *Ruggerino v Prince Holdings 2012, LLC*, index number 156640/2016, to active status and assign said action to the undersigned for a joint trial; and it is further

ORDERED that service upon 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/supctmanh](http://www.nycourts.gov/supctmanh));<sup>1</sup> and it is further

ORDERED that the motion is otherwise denied; and it is further

ORDERED that the pre-trial conference will be scheduled on Tuesday, July 6 at 2:30 pm with the trial anticipated start date on Monday July 12.

At or before the pre-trial conference, counsel are directed to provide marked pleadings and copies of relevant statutory provisions pursuant to 22 NYCRR Section 202.35 (a) and (b); and a witness list pursuant to Section 202.37.

Prior to the pre-trial conference, pursuant to 22 NYCRR Section 202.26(b) counsel shall confer with each other in good faith and be prepared to outline all issues requiring court intervention at pre-trial conference or prior to commencement (which will include anticipated motions in limine).

By the pre-trial conference or before the commencement of the trial, counsel shall, pursuant Section 202.34, consult each other regarding exhibits for pre-marking.

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<sup>1</sup> Which states in relevant part: "If the court in an e-filed case directs that either Clerk be served through NYSCEF or in accordance with this Protocol, the filer shall post to NYSCEF a copy of the order, with notice of entry if the court requires such notice. If the order directs service on the Clerk of the General Clerk's Office, the filer shall make the submission using the NYSCEF document type 'Service on Supreme Court Clerk (Genl. Clerk) w/Copy of Order.'"

By the pre-trial conference or before the commencement of the trial, counsel shall, provide a binder of exhibits for the Court's use pursuant to Section 202.20-h (b).

By the pre-trial conference or before the commencement of the trial, counsel shall, alert the Part Clerk if interpreters or technical equipment are requested.

No pre-trial memoranda are required in this matter (see 22 NYCRR §§ 202.35 [c] and 202.20-h [a]).

Before the case is submitted, the Court will direct the parties to submit requests for findings of fact and post-trial memoranda (see CPLR 4213).

This shall constitute the DECISION and ORDER of this Court.

5/6/2021

DATE



ALEXANDER M. TISCH, 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