

Cabrera v HLT NY Waldorf, LLC

2023 NY Slip Op 31714(U)

May 22, 2023

Supreme Court, New York County

Docket Number: Index No. 160999/2018

Judge: Paul A. Goetz

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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. PAUL A. GOETZ PART 47

Justice

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JULIO CABRERA,

Plaintiff,

- v -

HLT NY WALDORF, LLC, WALDORF ASTORIA
MANAGEMENT, LLC, HILTON WORLD WIDE,
INC., TISHMAN CONSTRUCTION CORPORATION,

Defendants.

-----X

HLT NY WALDORF, LLC, WALDORF ASTORIA
MANAGEMENT, LLC, HILTON WORLD WIDE, INC.,
TISHMAN CONSTRUCTION CORPORATION

Plaintiffs,

-against-

PAL ENVIRONMENTAL SAFETY CORP. D/B/A PAL
ENVIRONMENTAL SERVICES, W5 GROUP, LLC D/B/A
WALDORF DEMOLITION, CALVIN MAINTENANCE, INC.

Defendants.

-----X

HLT NY WALDORF, LLC, WALDORF ASTORIA
MANAGEMENT, LLC, HILTON WORLD WIDE, INC.,
TISHMAN CONSTRUCTION CORPORATION

Plaintiffs,

-against-

TEI GROUP LIMITED, OTIS ELEVATOR CO.

Defendant.

-----X

INDEX NO. 160999/2018
MOTION DATE N/A
MOTION SEQ. NO. 001

**DECISION + ORDER ON
MOTION**

Third-Party
Index No. 595533/2019

Second Third-Party
Index No. 595864/2022

The following e-filed documents, listed by NYSCEF document number (Motion 001) 79, 80, 81, 82, 83, 84, 85, 86, 103, 104, 105, 111, 112, 117

were read on this motion to/for CONSOLIDATE/JOIN FOR TRIAL.

Plaintiff Julio Cabrera moves, pursuant to CPLR § 602, to consolidate this action with the related action of Julio Cabrera v TEI Group Limited (Index No. 150618/2022) (action #2) for joint discovery and trial, amend the caption to reflect the consolidation, retain venue of the consolidated action in New York County, and direct the Clerk of the Trial Support Office to mark their records accordingly. Defendant TEI opposes the motion to consolidate arguing that the complaint in action #2 was filed beyond the statute of limitations. Defendant's argument was already rejected in the related action by decision and order dated March 18, 2023 because "Governor[Cuomo]'s *Executive Order 202.8*, and the subsequent extensions, tolled the time limitations under the *CPLR*, including to commence an action for 228 days. Therefore, the plaintiff has filed the action within the requisite time given the tolling period, and the plaintiff's filing of the complaint on January 20, 2022, was timely" (action #2, NYSCEF Doc No 49).

Accordingly, it is hereby

ORDERED that the motion is granted and the above-captioned action is consolidated in this Court with Cabrera vs. TEI Group Limited, Index No. 150618/2022, pending in this Court; and it is further

ORDERED that the consolidation shall take place under Index No. 160999/2018 and the consolidated action shall bear the following caption:

Julio Cabrera,

Plaintiff,

-against-

TEI Group Limited, HLT NY Waldorf LLC, Waldorf Astoria Management, LLC, Hilton World Wide, Inc, both Individually and d/b/a Waldorf Astoria New York and Tishman Construction Corporation,

Defendants.

HLT NY Waldorf LLC., Waldorf Astoria Management LLC s/h/a Waldorf Astoria Management, LLC, Park Hotels & Resorts Inc. f/k/a Hilton World Wide, Inc. s/h/a Hilton World Wide, Inc. both Individually and d/b/a Waldorf Astoria New York and Tishman Construction Corporation,

Third-Party Plaintiffs,

-against-

Pal Environmental Safety Corp., d/b/a Pal Environmental Services, W5 Group, LLC d/b/a Waldorf Demolition and Calvin Maintenance, Inc.,

Third-Party Defendants.

HLT NY Waldorf LLC., Waldorf Astoria Management LLC s/h/a Waldorf Astoria Management, LLC, Park Hotels & Resorts Inc. f/k/a Hilton World Wide, Inc. s/h/a Hilton World Wide, Inc. both Individually and d/b/a Waldorf Astoria New York and Tishman Construction Corporation,

Second Third-Party Plaintiffs,

-against-

TEI Group Limited and Otis Elevator Co.,

Second Third-Party Defendants.

And it is further

ORDERED that since defendant Otis' motion to dismiss as against it (mot seq no 002) was granted in *Cabrera v TEI Grp. Ltd.* (Index No. 150618/2022) by decision and order dated March 18, 2023, it will not be included as a primary defendant in the consolidated action and the above caption reflects as such; 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, who shall consolidate the documents in the actions hereby consolidated and shall mark his records to reflect the consolidation; and it is further

ORDERED that counsel for the movant shall contact the staff of the Clerk of the Court to arrange for the effectuation of the consolidation hereby directed; and it is further

ORDERED that service of this order upon the Clerk of the Court shall be made in hard-copy format if this action is a hard-copy matter or, if it is an e-filed case, 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); and it is further

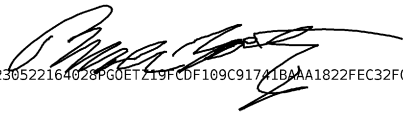
ORDERED that, as applicable and insofar as is practical, the Clerk of this Court shall file the documents being consolidated in the consolidated case file under the index number of the consolidated action in the New York State Courts Electronic Filing System or make appropriate notations of such documents 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 on the Clerk of the General Clerk’s Office, 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 this action is a hard-copy matter or, if it is an e-filed case, 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 status conference in Room 1021, 111

Centre Street, New York, New York, on August 17, 2023, at 9:30 AM.


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5/22/2023			PAUL A. GOETZ, J.S.C.		
DATE					
CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION	
	<input checked="" type="checkbox"/>	GRANTED	<input type="checkbox"/>	GRANTED IN PART	<input type="checkbox"/> OTHER
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>	SUBMIT ORDER	
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input type="checkbox"/> REFERENCE