

SHORT FORM ORDER

SUPREME COURT - STATE OF NEW YORK

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

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| DOROTHY FREIN, Plaintiff, - against - JAMES SEBBER and DANIEL SEBBER, Defendants. |
| LISEL NEBER, Plaintiff, - against - DANIEL SEBBER, JAMES SEBBER and EILEEN SEBBER a/k/a EILLEEN SEBBER, Defendants. |

TRIAL / IAS PART 43
NASSAU COUNTY

Index No. 10135/00

Motion Sequence No. 01

Action No. 2

Index No. 8294/01

The following papers having been read on this motion:

| | |
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| Notice of Motion, Affidavits, & Exhibits | <u>1</u> |
| Answering Affidavits | <u>2</u> |
| Replying Affidavits | <u>3</u> |
| Briefs: Plaintiff's / Petitioner's | _____ |
| Defendant's / Respondent's | _____ |

JAMES SEBBER and DANIEL SEBBER defendants in both Action No. 1 and Action No. 2 move this court for an order directing a joint trial of both actions. The defendants aver that both actions arose from the same automobile accident and involve the same parities and common questions of law and fact. No opposition to this motion has been filed with the court.

A motion to consolidate actions or for a joint trial pursuant to CPLR 602(a) rests in the sound discretion of the trial court. Absent a showing of prejudice to a substantial

right by a party opposing the motion, consolidation for a joint trial should be granted where common questions of law or fact exist (see, *Mattia v. Food Emporium, Inc.*, 259 A.D.2d 527, (N.Y.A.D. 2 Dept. 1999). Here, the court does not find a showing of prejudice to a substantial right by the party opposing the motion.

Accordingly, a **joint trial** is ordered. Each action shall maintain its separate index number and separate caption.

Date: January 30, 2002

ENTER



A handwritten signature in black ink, appearing to be 'J.S.C.', written over a horizontal line.

J. S. C.

ENTERED

FEB 14 2002

**NASSAU COUNTY
COUNTY CLERKS OFFICE**