

SHORT FORM ORDER

SUPREME COURT - STATE OF NEW YORK

Present:

HON. KENNETH A. DAVIS,

Justice

TRIAL/IAS, PART 7
NASSAU COUNTY

PATRICK GESSNER and LINDA GESSNER,

Plaintiffs,

SUBMISSION DATE: 04/27/06

INDEX No.: 16249/05

ACTION No.: 1

-against-

JAN DALY, TRICIA DALY, GERARD DALY and
NICHOLAS A. ZYSOPOLOUS a/k/a MICKLOS
ZYSOPOLOUS,

Defendants.

MOTION SEQ. #1

PATRICK GESSNER and LINDA GESSNER,

Plaintiffs,

INDEX No.: 1978/06

ACTION No.: 2

-against-

JAN DALY,

Defendant.

The following papers read on this motion:

Notice of Motion/ Order to Show Cause..... X
Answering Affidavits.....
Replying Affidavits.....
Briefs: Plaintiff's/Petitioner's.....
Defendant's/Respondent's.....

Upon the foregoing papers, plaintiff's unopposed motion, pursuant to CPLR §3025 for an order granting plaintiff leave to amend its summons and complaint to add causes of action and to consolidate this action with the action on the ground that both actions involve common questions of law and facts and arise from the same incident is granted. It appears from a review of the documentation presented that all necessary parties have been served with notice of this application, and further, that the relief requested is appropriate.

Gessner v. Daly
Index No.: 16249/05
Gessner v. Daly
Index No.: 1978/06

CPLR § 602 provides that when there are common questions of law and/or fact, where two actions arise out of the same incident and where it is highly probable that the same witnesses and evidence will be presented that the court can order that the two actions be tried together in the interests of justice and judicial economy. In the instant matter, both actions arise from an alleged incident that occurred on February 5, 2005 at the premises known as 18 Eric Lane, New Hyde Park, New York. Therefore, it is hereby ordered that Action #1 and Action #2 are consolidated under Index No. 16249/05. The new caption is as follows:

PATRICK GESSNER and LINDA GESSNER,

Plaintiffs,

INDEX No.: 16249/05

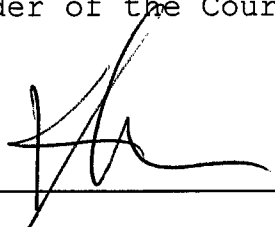
-against-

JAN DALY, TRICIA DALY, GERARD DALY and
NICHOLAS A. ZYSOPOLOUS a/k/a MICKLOS
ZYSOPOLOUS,

Defendants.

This constitutes the decision and order of the Court.

Dated: APR 27 2006



HON. KENNETH A. DAVIS J.S.C.

ENTERED

MAY 02 2006

NASSAU COUNTY
COUNTY CLERK'S OFFICE