

SUPREME COURT OF THE STATE OF NEW YORK — NEW YORK COUNTY

PRESENT: O. PETER SHERWOOD
Justice

PART 49

LEON MEYERS, et al.,

Plaintiffs,

-against-

EMPIRE STATE REALTY TRUST, INC., et al.,

Defendants.

INDEX NO. 650607/2012

MOTION DATE June 27, 2012

MOTION SEQ. NO. 001

MOTION CAL. NO. _____

The following papers, numbered 1 to _____ were read on this motion to/for consolidate/joint trial.

Notice of Motion/ Order to Show Cause — Affidavits — Exhibits ...

Answering Affidavits — Exhibits _____

Replying Affidavits _____

PAPERS NUMBERED

Cross-Motion: Yes No

Upon the foregoing papers, it is ordered that this motion to consolidate and to appoint lead counsel is resolved pursuant to the attached Decision and Order of Consolidation and Appointment of Co-Lead Counsel, dated June 25, 2012. Accordingly, the hearing scheduled to take place on June 27, 2012 is hereby cancelled.

Dated: June 25, 2012


O. PETER SHERWOOD, J.S.C.

Check one: FINAL DISPOSITION NON-FINAL DISPOSITION

Check if appropriate: DO NOT POST REFERENCE

SUBMIT ORDER/ JUDG.

SETTLE ORDER/ JUDG.

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE FOR THE FOLLOWING REASON(S):

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK**

LEON MEYERS, LEON M. MEYERS, TRUSTEE
UNDER THE WILL OF BEN MEYERS DATED
1/24/92, and LEON M. MEYERS, TRUSTEE
UNDER THE TRUST DATED 7/30/81 FBO
ABRAHAM M. SACHAROW, ELVIRA D.
SACHAROW, ELI M. SACHAROW AND RONI
C. SACHAROW,

Plaintiffs,

v.

EMPIRE STATE REALTY TRUST, INC., EMPIRE
STATE REALTY OP, L.P., MALKIN HOLDINGS
L.L.C., MALKIN PROPERTIES, L.L.C., MALKIN
PROPERTIES OF NEW YORK, L.L.C., MALKIN
PROPERTIES OF CONNECTICUT, INC.,
MALKIN CONSTRUCTION CORP., ANTHONY
E. MALKIN, PETER L. MALKIN, AND ESTATE
OF LEONA M. HELMSLEY,

Defendants.

Index No. 650607/2012

~~REPEATED~~ ORDER OF
CONSOLIDATION AND
APPOINTMENT OF CO-LEAD
COUNSEL

[captions continue on the following page]

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK**

LAURENCE REINLIEB, individually and on behalf
of all others similarly situated,

Plaintiff,

v.

EMPIRE STATE REALTY TRUST, INC., EMPIRE
STATE REALTY OP, L.P., MALKIN HOLDINGS
L.L.C., MALKIN PROPERTIES, L.L.C., MALKIN
PROPERTIES OF NEW YORK, L.L.C., MALKIN
PROPERTIES OF CONNECTICUT, INC., MALKIN
CONSTRUCTION CORP., ANTHONY E. MALKIN,
PETER L. MALKIN, AND ESTATE OF LEONA M.
HELMSLEY,

Defendants.

Index No. 650691/2012

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK**

JOSEPH WEISS,

Plaintiff,

v.

EMPIRE STATE REALTY TRUST, INC., EMPIRE
STATE REALTY OP, L.P., MALKIN HOLDINGS
L.L.C., MALKIN PROPERTIES, L.L.C., MALKIN
PROPERTIES OF NEW YORK, L.L.C., MALKIN
PROPERTIES OF CONNECTICUT, INC., MALKIN
CONSTRUCTION CORP., ANTHONY E. MALKIN,
PETER L. MALKIN, AND ESTATE OF LEONA M.
HELMSLEY,

Defendants.

Index No. 650798/2012

[captions continue on the following page]

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK**

STEVEN KEENHOLTZ, M.D., Individually and On
Behalf of All Other Similarly Situated,

Plaintiff,

v.

ANTHONY E. MALKIN, PETER L. MALKIN,
EMPIRE STATE REALTY TRUST, INC., EMPIRE
STATE REALTY OP, L.P., MALKIN HOLDINGS
L.L.C., MALKIN PROPERTIES, L.L.C., MALKIN
PROPERTIES OF NEW YORK, L.L.C., MALKIN
PROPERTIES OF CONNECTICUT, INC., MALKIN
CONSTRUCTION CORP., and the ESTATE OF
LEONA M. HELMSLEY,

Defendants.

Index No. 650851/2012

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK**

SUSAN BANDLER,

Plaintiff,

v.

EMPIRE STATE REALTY TRUST, INC.,
ANTHONY E. MALKIN, PETER L. MALKIN,
ESTATE OF LEONA M. HELMSLEY, EMPIRE
STATE REALTY OP, L.P., MALKIN HOLDINGS
L.L.C., MALKIN PROPERTIES, L.L.C., MALKIN
PROPERTIES OF NEW YORK, L.L.C., MALKIN
PROPERTIES OF CONNECTICUT, INC., AND
MALKIN CONSTRUCTION CORP.,

Defendants.

Index No. 650754/2012

THIS MATTER having come before the Court upon the Motion For Consolidation And Appointment Of Co-Lead Counsel filed by Plaintiffs Leon Myers; Leon M. Myers, Trustee Under the Will of Ben Myers Dated 1/24/92; Leon M. Myers, Trustee Under the Trust Dated 7/30/81 FBO Abraham M. Sacharow, Elivra D. Sacharow, Eli M. Sacharow and Roni C. Sacharow; Laurence Reinlieb; Steven Keenholtz; Susan Bandler; and Joseph Weiss ("Plaintiffs' Motion");

IT IS HEREBY ORDERED that said Motion is GRANTED and it is further ORDERED that:

1. The above-captioned actions are consolidated in the Commercial Division of this Court (the "Consolidated Action") under Index No. 650607/2012, and the Consolidated Action shall bear the following caption:

IN RE EMPIRE STATE REALTY TRUST, INC.
INVESTOR LITIGATION

Index No. 650607/2012

2. All papers filed in connection with the Consolidated Action need only be filed in Index No. 650607/2012;

3. The pleadings in the actions hereby consolidated shall stand as pleadings in the Consolidated Action until the filing of a consolidated complaint;

4. All documents previously filed and served to date in any of the cases consolidated pursuant to this Order are deemed filed and served and are a part of the record in the Consolidated Action;

5. All related actions that are subsequently filed in, or transferred to, the Supreme Court of the State of New York shall also be consolidated into Index No. 650607/2012 in the Commercial Division of this Court, and this Order shall apply to every such related action;

6. Defendants shall not be required to respond to the pending complaints in these consolidated matters. Plaintiffs shall file and serve a Consolidated Amended Complaint ("CAC") within 120 days of the date of this order or upon 10 days written notice to Defendants' counsel, or at a time agreed upon by the parties, after having obtained the approval of the Court. Defendants shall have 45 days from service of the Consolidated Amended Complaint in which to answer or otherwise respond to the Consolidated Amended complaint; if Defendants move to dismiss the Consolidated Amended Complaint, Plaintiffs shall have 45 days from service of the motion to dismiss to file an opposing brief and Defendants shall thereafter have 15 days to file a reply brief;

7. Co-Lead counsel shall have authority to speak for Plaintiffs in matters regarding pre-trial procedure, trial and settlement negotiations and shall make all work assignments in such manner as to facilitate the orderly and efficient prosecution of this litigation and to avoid duplicative or unproductive effort;

8. Defendants' counsel may rely upon all agreements made with Co-Lead Counsel, or other duly authorized representative of Co-Lead Counsel, and such agreements shall be binding on all Plaintiffs;

9. The law firms of Wolf Haldenstein Adler Freeman & Herz LLP, Labaton Sucharow LLP, Chimicles & Tikellis LLP, and Pomerantz Haudek Grossman & Gross, LLP (the "Executive Committee") are designated as Co-Lead Counsel, with Wolf Haldenstein serving as Chair of the Executive Committee;

10. As Chair of the Executive Committee, Wolf Haldenstein shall coordinate the efforts of Co-Lead Counsel and the Court may communicate with Co-Lead Counsel through Wolf Haldenstein, as Chair of the Executive Committee.

11. Nothing in this Order or any informal production of information to any adverse party in the Consolidated Action shall in any way waive any claim, defense or other right of any party.

12. Plaintiffs are directed to serve the Clerk of this Court with a copy of this Order with notice of entry, whereupon the Clerk shall consolidate the papers in the actions hereby consolidated and shall mark the records to reflect the consolidation.

DATED: JUN 25 2012

ENTER:


J.S.C. O. PETER SHERWOOD

JUN 25 2012