

**SUPREME COURT - STATE OF NEW YORK**

PRESENT: HON. R. BRUCE COZZENS, JR.  
Justice.

TRIAL IAS/ PART 2  
NASSAU COUNTY

\_\_\_\_\_  
WILLIAM R. HASSECK, JR.,

Plaintiff,

-against-

MOTION #004  
INDEX#603786/13  
MOTION DATE:  
March 10th, 2016

AMCHEM PRODUCTS, INC., et al.,

Defendant.

\_\_\_\_\_  
The following papers have been read on this motion:

Order to Show Cause.....1  
Affirmation in Opposition.....1

Upon the foregoing papers, it is ordered that plaintiff's application for a joint trial is determined as hereinafter set forth.

The plaintiff commenced this action alleging personal injuries as the result of exposure to asbestos. The plaintiff Louis Collins commenced a separate action under Index # 602785/14, alleging personal injuries as the result of exposure to asbestos.

In support of the motion, it is maintained that both plaintiffs are currently alive suffering from lung cancer, both plaintiff's were exposed to the same or similar materials at the same time. In addition, it is asserted that common defendants exist and that testimony concerning non-parties will overlap. Both plaintiffs are represented by the same counsel.

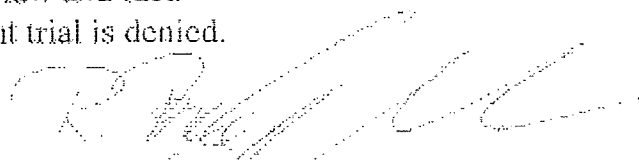
In opposition, it is asserted that the defendants would be prejudiced by the belated filing of the motion. In addition, it is maintained that joinder would lead to juror confusion. Further, it is agreed that there are distinctions between the respective plaintiffs that make joinder inappropriate. It is asserted that the plaintiffs were exposed to separate asbestos containing products and that if the respective descriptions of the products worked with differ, it would lead to juror confusion.

" Malcolm v. National Gypsum Co., (995 F2d 346 [2d Cir. 1993]) is the seminal case concerning consolidation in asbestos cases. There, the Second Circuit endorsed [a standard set of ] criteria...as a guideline in determining whether to consolidate asbestos exposure cases[,] includ[ing]: (1) common worksite; (2) similar occupation; (3) similar time of exposure; (4) type of disease; (5) whether plaintiffs were living or deceased; (6) status of discovery in each case; (7) whether all plaintiffs were represented by the same counsel; and (8) type of cancer alleged" (995 F2d at 350-351 [internal quotation marks and citations omitted])." *In the Matter of New York City Asbestos Litigation*, 121 A.D.3d 230, 990 N.Y.S.2d 174.

In the instant matter, the Court finds the individual issues between Mr. Hasseck and Mr. Collins predominate of any common questions of law and fact.

As such, the plaintiff's application for a joint trial is denied.

Dated: MAR 10 2016

  
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J.S.C.