

SHORT FORM ORDER

SUPREME COURT - STATE OF NEW YORK

Present:

HON. KENNETH A. DAVIS,

Justice

TRIAL/IAS, PART 3  
NASSAU COUNTY

SARASOTA, INC. D/b/a CREDIT CONTROL  
MANAGEMENT,

Plaintiff,

SUBMISSION DATE: 5/1/008  
INDEX No.: 35209/96

-against-

JASON COHEN,

MOTION SEQUENCE # 8

Defendants.

SARASOTA, INC., d/b/a CREDIT CONTROL  
MANAGEMENT,

Plaintiff,

-against-

INDEX No. 22102/07

DIANE COHEN and TROY FUNDING  
CORPORATION, a New York Corporation,

Defendants.

The following papers read on this motion:

|  |   |
|--|---|
| Notice of Motion/ Order to Show Cause..... | X |
| Answering Papers.....                      | X |
| Reply.....                                 | X |
| Briefs: Plaintiff's/Petitioner's.....      |   |
| Defendant's/Respondent's.....              |   |

Upon the foregoing papers, plaintiff's motion for an order consolidating the actions and for summary judgment against defendant's Diane Cohen and Troy Funding is denied.

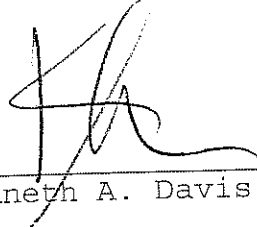
The instant actions seeks recovery of monies allegedly due and owing the plaintiff. Plaintiff seeks to consolidate action number

one and two. 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. The Court finds that consolidation is not appropriate in the instant action as Action # 1 is disposed of by the issuance of a judgment and the parties in action # 2 have not commenced discovery.

Additionally, the Court finds that summary judgment is inappropriate at this time since the parties have not conducted any meaningful discovery with regard to the allegations asserted in the complaint in Action # 2. The Court finds that this motion is premature in that all discovery has not been completed. Accordingly, the instant motion is denied with leave to renew at the completion of discovery. See, DiGiulio v. Kirsch, 5 A.D.3d 625, 774 N.Y.S.2d 776 (2d Dept 2004); Ryo v. Minerva, 290 A.D.2d 434, 738 N.Y.S.2d 855 (2d Dept 2002); Rosa v. Colonial Transit, 276 A.D.2d 781, 715 N.Y.S.2d 426 (2d Dept. 2000).

This decision constitutes the order of the Court.

Dated: JUN 20 2008

  
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Kenneth A. Davis, J.S.C.