

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

D15926
X/gts

_____AD3d_____

Argued - June 1, 2007

ROBERT A. SPOLZINO, J.P.
GABRIEL M. KRAUSMAN
DANIEL D. ANGIOLILLO
WILLIAM E. McCARTHY, JJ.

2006-05703

DECISION & ORDER

Richard Sullivan, plaintiff, v G & L Building Corp.,
defendant, JKT Construction, d/b/a Corcon
Construction, defendant third-party plaintiff-
appellant; Prince Electric, third-party defendant-
respondent, et al., third-party defendant
(and a second third-party action).

(Index No. 13922/02)

Marianne N. Candito, Bohemia, N.Y., for defendant third-party plaintiff-appellant.

Malapero & Prisco, LLP, New York, N.Y. (Frank J. Lombardo of counsel), for third-
party defendant-respondent.

In an action to recover damages for personal injuries, the defendant third-party plaintiff, JKT Construction, d/b/a Corcon Construction, appeals, as limited by its brief, from so much of an order of the Supreme Court, Suffolk County (Molia, J.), dated April 6, 2006, as granted that branch of the cross motion of the third-party defendant Prince Electric which was for summary judgment dismissing its third-party cause of action for contractual indemnification insofar as asserted against that third-party defendant and, in effect, denied that branch of its cross motion which was for summary judgment on its third-party cause of action for contractual indemnification insofar as asserted against the third-party defendant Prince Electric.

ORDERED that the order is affirmed insofar as appealed from, with costs.

August 7, 2007

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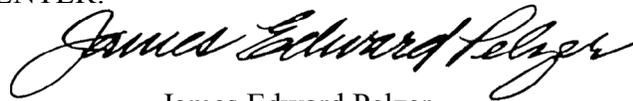
SULLIVAN v G & L BUILDING CORP.

The Supreme Court properly granted that branch of the cross motion of the third-party defendant Prince Electric (hereinafter Prince) which was for summary judgment dismissing the third-party cause of action for contractual indemnification insofar as asserted against it by the defendant third-party plaintiff, JKT Construction, d/b/a Corcon Construction (hereinafter JKT). In support of its cross motion for summary judgment, Prince made a prima facie showing that the plain language of the indemnification agreement did not provide that it indemnify JKT for JKT's loss, costs, and expenses (*see Moss v McDonald's Corp.*, 34 AD3d 656, 657). In opposition, JKT failed to raise a triable issue of fact (*see generally Alvarez v Prospect Hosp.*, 68 NY2d 320, 324). Further, in support of that branch of JKT's cross motion which was for summary judgment on its third-party cause of action for contractual indemnification insofar as asserted against Prince, JKT failed to establish, prima facie, that it was entitled to judgment as a matter of law.

JKT's remaining contentions are without merit.

SPOLZINO, J.P., KRAUSMAN, ANGIOLILLO and McCARTHY, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer
Clerk of the Court