

<b>Ambrose v City Univ. Constr. Fund</b>
2026 NY Slip Op 30995(U)
March 12, 2026
Supreme Court, New York County
Docket Number: Index No. 162316/2019
Judge: Leslie A. Stroth
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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. LESLIE A. STROTH PART 12M

Justice

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GREGORY AMBROSE,

Plaintiff,

- v -

CITY UNIVERSITY CONSTRUCTION FUND, MEMORIAL SLOAN KETTERING CANCER CENTER, MEMORIAL HOSPITAL FOR CANCER AND ALLIED DISEASES, TURNER CONSTRUCTION COMPANY,

Defendant.

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CITY UNIVERSITY CONSTRUCTION FUND, MEMORIAL SLOAN KETTERING CANCER CENTER, MEMORIAL HOSPITAL FOR CANCER AND ALLIED DISEASES, TURNER CONSTRUCTION COMPANY

Plaintiff,

-against-

B&G INDUSTRIES LTD, D/B/A AS B&G ELECTRICAL CONTRACTORS OF NEW YORK

Defendant.

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INDEX NO. 162316/2019
MOTION DATE 07/30/2025, 08/01/2025
MOTION SEQ. NO. 003 004

DECISION + ORDER ON MOTION

Third-Party Index No. 595797/2020

The following e-filed documents, listed by NYSCEF document number (Motion 003) 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 135, 137, 140

were read on this motion to/for REARGUMENT/RECONSIDERATION

The following e-filed documents, listed by NYSCEF document number (Motion 004) 132, 133, 134, 136, 138, 141

were read on this motion to/for REARGUMENT/RECONSIDERATION

Motion Sequence 003 and Motion Sequence 004 (1) are denied as moot pursuant to the Amended Decision and Order on Motion Sequences 001 and 002, dated March 12, 2026.

In Motion Sequence 004 (2) and (3), Third-Party Defendant B&G Industries Ltd., d/b/a B&G Electrical Contractors of New York ("B&G") move to reargue the unopposed portions of

B&G's Motion for Summary Judgment, dismissing the first and second causes of action in the third-party complaint against them; and for such other and further relief as deemed just and proper.

In the third-party action, Defendants/Third-Party Plaintiffs assert four causes of action against B&G, with the first and second causes of action asserting common law indemnity and contribution, the third cause of action asserting breach of contract, and the fourth cause of action asserting recovery based on insurance procurement. B&G moved to dismiss these third-party claims in its Motion for Summary Judgment (Motion Sequence 002), which was denied by this Court in an Order dated July 3, 2025 (NYSCEF Doc. No. 115). B&G now moves to reargue portions of its Motion for Summary Judgment pursuant to CPLR § 2221.

A motion for leave to reargue pursuant to CPLR § 2221(d) is addressed to the sound discretion of the court and may be granted upon a showing that the court overlooked or misapprehended the relevant facts or misapplied any controlling principle of law (*See* CPLR § 2221 [d][2]; *Frenchman v Lynch*, 97 AD3d 632, 633 [2d Dept 2012]; *William P. Pahl Equip. Corp. v Kassis*, 182 AD2d 22, 27 [1st Dept 1992], *lv dismissed in part and denied in part* 80 NY2d 1005 [1992], *rearg denied* 81 NY2d 782 [1993]; *Foley v Roche*, 68 AD2d 558, 567 [1st Dept 1979]). Reargument is “not designed to afford the unsuccessful party with successive opportunities to reargue issues previously decided . . . or to present arguments different from those originally asserted” (*Matter of Setters v Al Props. & Devs. [USA] Corp.*, 139 AD3d 492, 492 [1st Dept 2016] [internal quotation marks and citation omitted]).

CPLR § 2221(d)(3) provides that a motion for leave to reargue “shall be made within thirty days after service of a copy of the order determining the prior motion and written notice of

its entry.” Here, B&G’s Motion is timely because it was filed on August 1, 2025, within 30 days of the July 3, 2025 decision.

B&G argues that this Court improperly denied their Motion for Summary Judgment, stating that the first and second causes of action asserted in the third-party complaint should have been dismissed as a matter of law. B&G argue that this Court overlooked New York Workers Compensation Law § 11, which bars common law indemnity and contribution claims against a plaintiff’s employer except in the case of a grave injury (NYSCEF Doc. No. 133 at 6). B&G avers that Plaintiff did not suffer a grave injury, therefore, Defendants/Third-Party Plaintiffs’ common law claims for indemnity and contribution must be dismissed.

B&G posits that Defendants/Third-Party Plaintiffs did not oppose the portions of B&G’s original Motion for Summary Judgment seeking dismissal of the first and second causes of action. The Court notes that Defendants/Third-Party Plaintiffs do not presently oppose Motion Sequence 004.

New York Workers Compensation Law § 11 reads, in relevant part:

An employer shall not be liable for contribution or indemnity to any third person based upon liability for injuries sustained by an employee acting within the scope of his or her employment for such employer unless such third person proves through competent medical evidence that such employee has sustained a “grave injury” which shall mean only one or more of the following: death, permanent and total loss of use or amputation of an arm, leg, hand or foot, loss of multiple fingers, loss of multiple toes, paraplegia or quadriplegia, total and permanent blindness, total and permanent deafness, loss of nose, loss of ear, permanent and severe facial disfigurement, loss of an index finger or an acquired injury to the brain caused by an external physical force resulting in permanent total disability.

B&G states that Plaintiff does not claim a grave injury, as Plaintiff’s injuries are limited to a right knee injury without surgery. B&G argues that New York Workers Compensation Law § 11

applies, meaning that Defendants/Third-Party Plaintiffs may not claim contribution and indemnity against B&G as a matter of law.

Given that B&G is Plaintiff's employer (Third-Party Complaint at ¶ 4), and in light of New York Workers Compensation Law § 11, the Court grants B&G's Motion for Reargument and upon reargument, grants B&G's Motion for Summary Judgment as to Defendants/Third-Party Plaintiffs' first and second causes of action as asserted in the Third-Party Complaint.

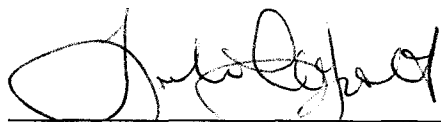
Accordingly, it is hereby

ORDERED that Third-Party Defendant B&G Industries Ltd., d/b/a B&G Electrical Contractors of New York's Motion to Reargue is granted, and upon reargument, it is further

ORDERED that Third-Party Defendant B&G Industries Ltd., d/b/a B&G Electrical Contractors of New York's Motion for Summary Judgment is granted as to the first and second causes of action in the Third-Party Complaint.

The foregoing constitutes the decision and order of the Court.

3/12/2026  
DATE

  
LESLIE A. STROTH, J.S.C.

CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION		
	<input checked="" type="checkbox"/>	GRANTED	<input type="checkbox"/>	DENIED	<input type="checkbox"/>	OTHER
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>	SUBMIT ORDER	<input type="checkbox"/>	REFERENCE
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input type="checkbox"/>	