

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

684

CA 15-00047

PRESENT: SMITH, J.P., CENTRA, PERADOTTO, SCONIERS, AND WHALEN, JJ.

GREGORY S. HEDLUND, PLAINTIFF-RESPONDENT,

V

ORDER

JAMESTOWN PUBLIC SCHOOLS, JAMESTOWN PUBLIC
SCHOOLS BOARD OF EDUCATION,
DEFENDANTS-RESPONDENTS,
AND PICONE CONSTRUCTION CORPORATION, DEFENDANT.

PICONE CONSTRUCTION CORPORATION, THIRD-PARTY
PLAINTIFF-RESPONDENT,

V

GILLETTE MASONRY, INC., THIRD-PARTY
DEFENDANT-APPELLANT.

MACDONALD, ILLIG, JONES & BRITTON LLP, ERIE, PENNSYLVANIA (BRUCE L.
DECKER, JR., OF COUNSEL), FOR THIRD-PARTY DEFENDANT-APPELLANT.

FARACI LANGE LLP, BUFFALO (PETER F. BRADY OF COUNSEL), FOR
PLAINTIFF-RESPONDENT.

HURWITZ & FINE, P.C., BUFFALO (DAVID R. ADAMS OF COUNSEL), FOR
DEFENDANTS-RESPONDENTS.

LIPPMAN O'CONNOR, BUFFALO (GERARD E. O'CONNOR OF COUNSEL), FOR
THIRD-PARTY PLAINTIFF-RESPONDENT.

Appeal from an order of the Supreme Court, Chautauqua County (Deborah A. Chimes, J.), entered April 24, 2014. The order, insofar as appealed from, granted the motion of plaintiff for partial summary judgment on liability pursuant to Labor Law § 240 (1) against defendants Jamestown Public Schools and Jamestown Public Schools Board of Education; denied those parts of the cross motion of defendants Jamestown Public Schools and Jamestown Public Schools Board of Education for summary judgment dismissing plaintiff's Labor Law § 240 (1) claim and § 241 (6) claim insofar as it alleged a violation of 12 NYCRR 23-5.1 (c) and 12 NYCRR 23-5.1 (g); granted that part of the cross motion of defendants Jamestown Public Schools and Jamestown Public Schools Board of Education for summary judgment on defense and contractual indemnification against defendant Picone Construction Corporation; and granted the cross motion of third-party plaintiff Picone Construction Corporation for summary judgment on defense and

contractual indemnification against third-party defendant, Gillette Masonry, Inc.

It is hereby ORDERED that said appeal from the order insofar as it granted that part of the cross motion of defendants Jamestown Public Schools and Jamestown Public Schools Board of Education seeking summary judgment against defendant Picone Construction Corporation be and the same hereby is unanimously dismissed (see CPLR 5511), and the order is affirmed without costs for reasons stated in the decision at Supreme Court.

Entered: June 12, 2015

Frances E. Cafarell
Clerk of the Court