

**Chunn v New York City Hous. Auth.**

2008 NY Slip Op 33574(U)

February 29, 2008

Supreme Court, New York County

Docket Number: 116764/06

Judge: Louis B. York

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SUPREME COURT OF THE STATE OF NEW YORK — NEW YORK COUNTY

PRESENT: Hon. LOUIS B. YORK  
Justice

PART 2

-----X

CHRISTOPHER CHUNN,  
Plaintiff,  
-against-

Index No. 116764/06  
Motion Date \_\_\_\_\_  
Motion Seq. No. 001  
Motion Cal. No. \_\_\_\_\_

NEW YORK CITY HOUSING AUTHORITY and  
AMERICAN SECURITY SYSTEMS, INC.,  
Defendants,

-----X

NEW YORK CITY HOUSING AUTHORITY,  
Third-Party Plaintiff,  
-against-

Index No. 590332/07

AMERICAN SECURITY SYSTEMS, INC.,  
Third-Party Defendant,

**FILED**  
MAR 11 2008  
NEW YORK COUNTY CLERK'S OFFICE

-----X

NEW YORK CITY HOUSING AUTHORITY,  
Second-Third Party Plaintiff,  
-against-

NEW YORK COUNTY CLERK'S OFFICE  
Index No. 116764/06

NATIONAL CASUALTY COMPANY and  
SCOTTSDALE INSURANCE COMPANY,  
Second Third-Party Defendants.

-----X

The following papers, numbered 1 to \_\_\_\_\_ were read on this motion to Sever

NUMBERED  
Notice of Motion/ Order to Show Cause — Affidavits — Exhibits \_\_\_\_\_  
Answering Affidavits — Exhibits \_\_\_\_\_  
Replying Affidavits \_\_\_\_\_

**PAPERS**  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Cross-Motion: [ ] Yes [X] No

This is an action for personal injury against the defendant American Security Systems, Inc., and the New York City Housing Authority. Plaintiff claims that he was injured as a result of a stranger assaulting him inside his building as a result of that individual gaining entrance because the lock on the entrance door was broken. There are allegations that the intercom system was broken for several months before the incident even though defendant American Security Systems ("ASSI") had inspected the premises before plaintiff was attacked.

Defendant Housing Authority has impleaded American Security Systems, National Casualty Company and Scottsdale Insurance Company claiming that they are obligated to defend it under an agreement between the Housing Authority and American Security systems. In that agreement, ASSI agreed to defend and indemnify the Housing Authority and to provide insurance against any claims against the Housing Authority for liability arising from injuries connected with the services of ASSI. ASSI did obtain coverage for the Housing Authority with third-party defendants National Security Systems and its agent Scottsdale Insurance Company.

The third-party defendants claim that the injuries resulted from a broken lock, the maintenance of which is not their responsibility but that of the Housing Authority. They also claim that the Housing Authority's notice to them was too late, justifying their disclaimer on

that basis. As to the latter matter, the Housing Authority argues that its attempts to obtain copies of any insurance policies to see what insurance companies were covered and the extent of the coverage were rebuffed until it obtained that information once it filed suit. When the information was made available, the Housing Authority immediately gave notice. The Court observes that two different policies were obtained for the Housing Authority from National Casualty Company and on only one of them is the late notice alleged.

This Court finds that the assertion by a witness that the defect in the intercom was broken several months before the break in, leads to the conclusion that this was the cause of the broken locks as frustrated visitors sought to gain entrance to the building without the availability of a working intercom. This then justifies coverage by the insurance company in question, National Security Company.

Defendants have cross-moved to sever the third-party actions.

Accordingly, it is

~~ADJUDGED~~ **ORDERED** and **DECLARED** that third-party defendants American Security

Systems, Inc., and National Security Casualty Company are obligated to defend and indemnify the New York City Housing Authority in the main action, and it is further

~~ADJUDGED~~ <sup>ORDERED</sup> that the cross-motions to sever are denied without prejudice and to be considered at the forthcoming status conference.

Dated: 2/29/08

Enter:

Ley  
Louis B. York, J.S.C.

**LOUIS B. YORK**  
J.S.C.

**FILED**  
MAR 11 2008  
NEW YORK  
COUNTY CLERK'S OFFICE

Check one:  FINAL DISPOSITION  NON-FINAL DISPOSITION

Check if appropriate:  DO NOT POST  REFERENCE