

Calabrese Assoc., Inc. v Forty E. Broadway Corp.

2013 NY Slip Op 32865(U)

November 7, 2013

Sup Ct, New York County

Docket Number: 105340/11

Judge: Barbara R. Kapnick

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This opinion is uncorrected and not selected for official publication.

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

PRESENT: **BARBARA R. KAPNICK**
Justice

PART 39

CALABROSE ASSOCIATES

INDEX NO. _____

MOTION DATE _____

MOTION SEQ. NO. 012

MOTION CAL. NO. _____

- v -

FORTY EAST BROADWAY

The following papers, numbered 1 to _____ were read on this motion to/for _____

Notice of Motion/ Order to Show Cause — Affidavits — Exhibits ...
Answering Affidavits — Exhibits _____
Replying Affidavits _____

PAPERS NUMBERED

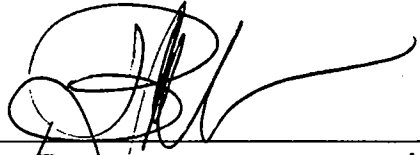
Cross-Motion: Yes No

Upon the foregoing papers, it is ordered that this motion

**MOTION IS DECIDED IN ACCORDANCE WITH
ACCOMPANYING MEMORANDUM DECISION**

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE
FOR THE FOLLOWING REASON(S):

Dated: 11/7/13


BARBARA R. KAPNICK J.S.C.

Check one: FINAL DISPOSITION NON-FINAL DISPOSITION
Check if appropriate: DO NOT POST

SUPREME COURT OF THE CITY OF NEW YORK
COUNTY OF NEW YORK: PART 39

-----x

CALABRESE ASSOCIATES, INC.

Plaintiff,

- against -

FORTY EAST BROADWAY CORP. and
JOHN D. NAKROSIS,

Defendants.

-----x

FORTY EAST BROADWAY CORP.,

Third-Party Plaintiff/Cross-Claim Plaintiff

- against -

93 BOWERY HOLDINGS LLC, VALVERDE
CONSTRUCTION CORP., SEYMOUR GAGE,
P.E., GAL ASSOCIATES, JOHN S. DEERKOSKI,
P.E., JOHN S. DEERKOSKI, PE AND ASSOCIATES,
KOS GENERAL CONTRACTING CORP., formerly
known as JOHN DOE 1 and JOHN DOES 2 through 10,

Third-Party Defendants.

AXIS DESIGN GROUP INTERNATIONAL, LLC

Cross-Claim Defendant.

-----x

JOHN D. NAKROSIS,

Third-Party Plaintiff,

- against -

SEYMOUR GAGE, P.E., GAL ASSOCIATES
and AXIS DESIGN GROUP INTERNATIONAL,
LLC,

Third-Party Defendants.

-----x

DECISION/ORDER

Index No.: 603102/08

Motion Seq. No. 012

Action No. 1

Third-Party

Index No. 590207/09

Third-Party

Index No. 590640/09

-----x

FORTY EAST BROADWAY CORP.,

Plaintiff,

- against -

THE CHARTER OAK FIRE INSURANCE COMPANY
and TOWER INSURANCE COMPANY OF NEW YORK,

Defendants.

Index No. 601072/09
Action NO. 2

-----x

KONG MAN CENTER, INC., W&M BOOK STORE,
INC. and KONG MAN CHAN,

Plaintiffs,

- against -

93 BOWERY HOLDINGS, LLC, FORTY EAST
BROADWAY CORP., SHING WEI CORP.,
CALABRESE ASSOCIATES, INC. MANHATTAN
DEMOLITION CO., INC. and A. RUSSO
WRECKING, INC.,

Defendants.

Index No. 114041/09
Action NO. 3

-----x

93 BOWERY HOLDINGS, LLC,

Third-Party Plaintiff,

- against -

VALVERDE CONSTRUCTION CORP.,
SEYMOUR GAGE, PE, GAL ASSOCIATES,
JOHN S. DEEKOSKI, PE, DEERKOSKI
ENGINEERING, PC, KOS GENERAL CONTRACTING
CORP., JOHN D. NAKROSIS and AXIS
DESIGN GROUP INTERNATIONAL, LLC,

Third-Party Defendants.

Third-Party
Index No. 590156/12

-----x

FRANK CHAUNG, DMD,

Plaintiff,

- against -

FORTY EAST BROADWAY, CORP.,

Defendant.

Index No. 105312/09
Action NO. 4

-----x

-----x
NATIONWIDE MUTUAL FIRE INSURANCE
CO. a/s/o FRANK CHAUNG, DMD,

Index No. 108747/11
Action NO. 5

Plaintiff,

- against -

93 BOWERY HOLDINGS, LLC, FORTY EAST
BROADWAY CORP., SHING WEI CORP.,
CALABRESE ASSOCIATES, INC., MANHATTAN
DEMOLITION CO., INC., and A RUSSO
WRECKING, INC.

Defendants.

-----x
P TUNE & VIDEO CORP. and WEI-PING YUAN,

Index No. 105340/11
Action NO. 6

Plaintiffs,

- against -

93 BOWERY HOLDINGS, LLC, FORTY EAST
BROADWAY CORP., SHING WEI CORP.,
CALABRESE ASSOCIATES, INC., MANHATTAN
DEMOLITION CO., INC., A RUSSO
WRECKING, INC. and KONG MAN CENTER, INC.,

Defendants.

-----x
93 BOWERY HOLDINGS, LLC,

Third-Party
Index No. 590158/12

Third-Party Plaintiff,

- against -

VALVERDE CONSTRUCTION CORP., SEYMOUR
GAGE, PE, GAL ASSOCIATES, JOHN DEERKOSKI,
PE, DEERKOSKI ENGINEERING, PC, KOS GENERAL
CONTRACTING CORP., JOHN D. NAKROSIS and
AXIS DESIGN GROUP INTERNATIONAL, LLC,

Third-Party Defendants.

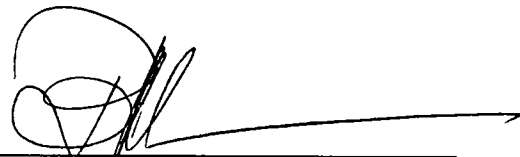
-----x
BARBARA R. KAPNICK, J.:

This Order to Show Cause by plaintiff Calabrese Associates,
Inc. ("Calabrese") for an order pursuant to CPLR 5015(a) vacating

the default judgment entered in favor of defendant Forty East Broadway Corp. on its amended counterclaims, reinstating the reply to the amended counterclaims and allowing the law offices of Litchfield Cavo, LLP to represent and defend Calabrese against the amended counterclaims is granted in accordance with the decision dictated on the record on November 6, 2013, on condition that First Mercury Insurance Company pay \$500 in costs to defendant Forty East Broadway Corp. within 10 business days. That portion of the Order on motion seq. no. 011 dated July 2, 2013 which struck the Complaint filed by plaintiff Calabrese in Action No. 1 (Index No. 603102/08) is not affected by this motion and/or Order.

This constitutes the Decision and Order of this Court.

Dated: November 7, 2013



BARBARA R. KAPNICK
J.S.C.

BARBARA R. KAPNICK
J.S.C