Colon v Third Ave. Open MRI, Inc.
2018 NY Slip Op 32015(U)
June 18, 2018
Supreme Court, Bronx County
Docket Number: 23906/2015E
Judge: Lucindo Suarez

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX: I.A.S. PART LPM

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FELIX COLON,

Plaintiff,

- against -

THIRD AVENUE OPEN MRI, INC. and GW THIRD AVENUE, LLC,

Defendants.

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DECISION AND ORDER

Index No. 23906/2015E

PRESENT: Hon. Lucindo Suarez

Upon plaintiff's notice of motion dated March 27, 2018 and the affirmation and exhibits submitted in support thereof; defendant's notice of cross-motion dated May 29, 2018 and the affirmation, exhibits and memorandum of law submitted in support thereof; plaintiff's affirmation in opposition dated June 1, 2018; defendants' affirmation in reply dated June 4, 2018 and the exhibits submitted therewith; plaintiff's affirmation in sur-reply dated June 4, 2018 and the exhibit submitted therewith; and due deliberation; the court finds:

In this Labor Law action, plaintiff claims to have fallen from a ladder when it collapsed while he was performing an overhead plumbing repair. Plaintiff moves for summary judgment on his Labor Law § 240(1) claim. Defendants, the owner/lessor and lessee of the premises, cross-move for summary judgment dismissing the complaint.

According to plaintiff's recitation of the deposition testimony of plaintiff and defendant Third Avenue Open MRI, Inc. ("Third Ave"), who owned and operated a medical imaging facility, Kenneth Gleicher ("Gleicher"), Third Ave's chief operating officer, called plaintiff to make an unscheduled repair of a leak coming from the ceiling in one of the imaging rooms. Gleicher brought plaintiff a ladder. Plaintiff climbed the ladder and could see the leak was coming from a loosened no-hub clamp. As he attempted to climb further to tighten the clamp, the

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ladder collapsed and plaintiff fell. After falling, plaintiff noticed the ladder's footings were uneven. Defendants add that the ceiling tile had already been slid out of place by one of the x-ray technicians to permit plaintiff to view the pipes, and that the ladder remained upright when plaintiff fell. They further point to plaintiff's testimony that he had not yet performed any work at the time of his accident and that it was his intention to fix the leak by tightening the clamp with a screwdriver that he had on his person. In addition, Gleicher testified that the leak stopped on its own and he ultimately learned the source of the leak was a spill from the apartment above, and not an issue with the plumbing system.

Plaintiff argues that defendants' failure to provide plaintiff with a proper ladder violated Labor Law § 240(1) and proximately caused plaintiff's fall. Plaintiff furthermore argues that because plaintiff was addressing a specific on-demand repair, he was not performing mere routine maintenance and was thus performing work protected by the Labor Law. Defendants argue that the repair constituted routine maintenance.

In support of their cross-motion, defendants submitted the deposition transcript of Urmilla Ramdas-Koodie ("Ramdas-Koodie"), a former employee of the imaging center and a witness to the circumstances of the accident. Plaintiff objects to the use of the deposition because it is not in admissible form. The title page of the deposition stated that it was taken of a non-party by the respective parties pursuant to subpoena. The witness was no longer an employee of Third Ave and appeared pursuant to a subpoena served by plaintiff. The deposition was taken on March 20, 2018. Plaintiff's motion was made on March 27, 2018, one week later. Plaintiff did not forward a copy of the deposition to defendants until May 11, 2018 and did so under a cover letter that referred to the witness as defendants' client and directed defendants to have the witness sign and notarize the transcript.

It is generally the subpoenaing party that ensures a transcript is signed and corrected by the deponent, and it is apparent that plaintiff's counsel sent the transcript to defendants' counsel in the mistaken assumption that Ramdas-Koodie was deposed as defendants' witness. Nevertheless, the responsibility to demonstrate compliance with CPLR 3116(a) shifts to the proponent of the testimony. *See Deegan v. Getter*, 42 Misc. 3d 1225(A), 2014 NY Slip Op 50196(U) (Sup Ct Kings County Feb. 8, 2014).

It is a movant's burden to ensure the submission of proof in admissible form, and an attorney affirmation relying on hearsay documentary evidence is not sufficient on a motion for summary judgment. *See Batista v. Santiago*, 25 A.D.3d 326, 807 N.Y.S.2d 340 (1st Dep't 2006); *Perez v. Brux Cab Corp.*, 251 A.D.2d 157, 674 N.Y.S.2d 343 (1st Dep't 1998). "[A] document lacking evidentiary foundation does not become admissible by mere attachment to an attorney's affirmation." *Basis Yield Alpha Fund (Master) v. Goldman Sachs Group, Inc.*, 115 A.D.3d 128 n 4, 980 N.Y.S.2d 21 (1st Dep't 2014) (DeGrasse, J., concurring). Defendants could have sought adjournment of the motion and cross-motion for the purpose of complying with CPLR 3116(a) but chose not to. Defendants do not claim to have forwarded the transcript to the witness; accordingly, it is inadmissible for summary judgment purposes.

Labor Law § 240(1)

Liability under Labor Law § 240(1) is limited to the "erection, demolition, repairing, altering, painting, cleaning or pointing of a building or structure." "[S]ince [plaintiff's work] involved no 'significant physical change to the configuration or composition of the … structure,'" *Adair v. Bestek Lighting & Staging Corp.*, 298 A.D.2d 153, 153, 748 N.Y.S.2d 362, 363 (1st Dep't 2002), the question is whether plaintiff was "repairing" a building or structure at the time of his accident. "Labor Law § 240 (1) does not apply to routine maintenance that is not

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done in the context of construction or renovation work." *Jehle v. Adams Hotel Assocs.*, 264 A.D.2d 354, 355, 695 N.Y.S.2d 22, 24 (1st Dep't 1999).

The type of maintenance excluded from the protection of the Labor Law is not defined solely by the temporal aspect of the word "routine," but rather takes into account the character, complexity and context of the work. "The fact that a job arises from a service call, rather than regularly scheduled maintenance, is not sufficient to render it repair work." *Barbarito v. County of Tompkins*, 22 A.D.3d 937, 939, 803 N.Y.S.2d 208, 210 (3rd Dep't 2005), *lv denied* 7 N.Y.3d 701, 850 N.E.2d 1166, 818 N.Y.S.2d 191 (2006).

> "Essentially, routine maintenance for purposes of the statute is work that does not rise to the level of an enumerated term such as repairing or altering." In distinguishing between what constitutes repair as opposed to routine maintenance, courts will consider such factors as 'whether the work in question was occasioned by an isolated event as opposed to a recurring condition;' whether the object being replaced was 'a worn-out component' in something that was otherwise 'operable;' and whether the device or component that was being fixed or replaced was intended to have a limited life span or to require periodic adjustment or replacement.

Soriano v. St. Mary's Indian Orthodox Church of Rockland, Inc., 118 A.D.3d 524, 526-27, 988 N.Y.S.2d 58, 61-62 (1st Dep't 2014) (citations omitted).

It is not merely the amount of labor required or even the attendant danger in the activity that dictates whether it is to be considered repair or maintenance. *See Barbarito*, *supra*. Factors influencing whether a particular activity will be deemed repair or maintenance for Labor Law purposes require an examination of the totality of the work done on the project and include whether the activity results in a significant physical change, the amount of time the work will require and whether the activity requires such specialization and complexity as to require off-site attention. *See Lee v. Astoria Generating Co., L.P.*, 55 A.D.3d 124, 863 N.Y.S.2d 164 (1st Dep't 2008), *revd on other grounds* 13 N.Y.3d 382, 892 N.Y.S.2d 294, 920 N.E.2d 350 (2009). Other factors include the complexity and length of the project and the purpose for which a part is being

replaced. *See Medina v. City of N.Y.*, 87 A.D.3d 907, 929 N.Y.S.2d 582 (1st Dep't 2011). A "simple, routine activity" falls outside the scope of the statute. *See Lee*, *supra*.

"[R]eplacement of parts that wear out routinely should be considered maintenance, outside the purview of Labor Law § 240(1), as opposed to replacement of non-functioning components of a building or structure." *Jehle*, 264 A.D.2d at 355, 695 N.Y.S.2d at 24. The court must consider whether the part ordinarily requires inspection, adjustment or replacement and whether it is intended to have a limited life, such that the malfunction may be deemed one likely to recur. *See Roth v. Lenox Terrace Assocs.*, 146 A.D.3d 608, 44 N.Y.S.3d 763 (1st Dep't 2017).

"[R]eplacing or repairing relatively small components that suffered from normal wear and tear" is "not major structural work" and will not support a Labor Law § 240(1) claim. *Jehle*, 264 A.D.2d at 355, 695 N.Y.S.2d at 24. Where the "repair" actually involves only the adjustment and/or replacement of small components, the Labor Law § 240(1) claim is properly dismissed. *See Esposito v. N.Y.C. Indus. Dev. Agency*, 305 A.D.2d 108, 760 N.Y.S.2d 18 (1st Dep't), *affd* 1 N.Y.3d 526, 770 N.Y.S.2d 682, 802 N.E.2d 1080 (2003). Even though the subject activity is required to address a "malfunction," where the condition is a "common problem" and the remedy is simple, whether it is the adjustment of a few screws or the replacement of a small part, the work will be found to be routine maintenance not giving rise to Labor Law § 240(1) liability. *See Abbatiello v. Lancaster Studio Assocs.*, 3 N.Y.3d 46, 781 N.Y.S.2d 477, 814 N.E.2d 784 (2004). "Even if the item to be repaired is malfunctioning or inoperable, when the work involves only component replacement or adjustment necessitated by normal wear and tear, it constitutes routine maintenance, rather than 'repairing' or any other enumerated activity." *Barbarito*, 22 A.D.3d at 938, 803 N.Y.S.2d at 210.

Here, plaintiff's work was not part of a larger project. There was no other work being

performed on the premises and the sole condition he had been contacted about was a ceiling leak. Plaintiff testified that when he arrived at the scene, nothing other than a hole in the ceiling indicated that there was a leak and it was leaking "just drops." He was able to discern from standing on the floor under the leak looking through the "hole" in the ceiling that the clamps had "gone wrong" and required tightening. He knew this was the course to be followed and the specific screwdriver required to tighten the clamp "because that is almost what always happens because that's what happens when the drains are like that." The repair was a matter of tightening a nut on the clamp on a standard "normal" P-trap having a diameter of two inches.

Given plaintiff's testimony that the condition was a commonly occurring one and the simplicity of the remedy involving nothing more than tightening nuts on small parts, plaintiff was performing routine maintenance, and the Labor Law § 240(1) claim must be dismissed. *See Thompson v. 1701 Corp.*, 51 A.D.3d 904, 857 N.Y.S.2d 732 (2d Dep't 2008). Plaintiff failed to raise an issue of fact. The cases cited by plaintiff do not stand for the proposition that, in the abstract, the repair of a leak is a covered activity. In contrast to the cases cited by plaintiff, which involved the repair of leaks of a roof, which is a primary structural component of any structure, plaintiff here would have repaired a small, contained leak in a pipe that may or may not have been actively dripping at the time of his accident. Therefore, plaintiff's motion is denied and defendant's cross-motion is granted.

Labor Law § 241(6)

The accident did not occur in the context of construction, excavation or demolition; accordingly, defendants' unopposed cross-motion for summary judgment on the Labor Law § 241(6) claim must be granted. *See Widawski v. 217 Elizabeth St. Corp.*, 40 A.D.3d 483, 838 N.Y.S.2d 496 (1st Dep't 2007); *Joy v. City of N.Y.*, 17 A.D.3d 300, 794 N.Y.S.2d 40 (1st Dep't),

lv denied 5 N.Y.3d 707, 835 N.E.2d 660, 801 N.Y.S.2d 800 (2005).

Labor Law § 200 and Common-law Negligence

Defendants argue that the Labor Law § 200 and negligence claims must be dismissed because defendants did not supervise or control the means or methods of plaintiff's work. Even if there is no viable claim under Labor Law § 240(1) or 241(6), there may still be an issue as to whether a defendant is liable pursuant to Labor Law § 200. *See Acosta v. Banco Popular*, 308 A.D.2d 48, 762 N.Y.S.2d 64 (1st Dep't 2003). Labor Law § 200, which applies to owners and general contractors, *see Urban v. No. 5 Times Sq. Dev., LLC*, 62 A.D.3d 553, 879 N.Y.S.2d 122 (1st Dep't 2009), is still a codification of the common law, and a finding that defendants did not direct or control plaintiff's work is not dispositive of a Labor Law § 200 claim against them arising out of a dangerous condition. *See Burton v. CW Equities, LLC*, 97 A.D.3d 462, 950 N.Y.S.2d 1 (1st Dep't 2012); *Urban*, *supra*.

Plaintiff attributed the accident to the condition of a purportedly defective ladder which Third Ave admits to owning. Third Ave therefore had a duty to maintain the ladder. *See Cullen v. Uptown Storage Co.*, 268 A.D.2d 327, 702 N.Y.S.2d 244 (1st Dep't 2000). Third Ave failed to affirmatively establish a lack of notice of a defective condition in the ladder, nor did it establish that any such defect did not contribute to the accident. *See Gopie v. Mutual of Am. Life Ins. Co.*, 142 A.D.3d 820, 37 N.Y.S.3d 122 (1st Dep't 2016); *Cullen*, *supra*. There is, however, no basis to find GW Third Avenue, LLC liable on these causes of action, and "a defendant can prevail at the summary judgment stage by challenging the sufficiency of the plaintiff's evidence." *Mendoza v. Highpoint Assocs., IX, LLC*, 83 A.D.3d 1, 8, 919 N.Y.S.2d 129, 134 (1st Dep't 2011).

Compel Discovery

Plaintiff also moves to compel production of a report made to defendants' insurer. At his

July 20, 2017 deposition, Gleicher testified, when asked if aware of any reports relative to the accident, that an insurance investigator took a statement from him that he believed he signed. Plaintiff demanded the report on the record at Gleicher's deposition; defendants objected to exchange of the report as privileged material prepared in anticipation of litigation. Plaintiff demanded the report on September 28, 2017 in a written demand preemptively arguing that such report was not immune from disclosure. On January 11, 2018, defendants responded that they were not in possession of anything responsive to the demand. Although in a general preamble to its responses, defendant generally objected to the demands insofar as they sought information "protected by applicable privileges," defendants did not object to the demand specifically nor did the general objections mention the exemption for materials prepared for litigation.

Plaintiff has neither sought nor been granted leave by the undersigned to make such motion, which is therefore made in derogation of this part regarding discovery-related motions. Plaintiff discloses no good faith efforts to resolve the issue before resort to motion practice, nor does he establish that any such efforts would have been futile or that such efforts should be excused. The determination as to whether good faith efforts would have been fruitless is the court's, not plaintiff's. Nevertheless, despite these failures, the court entertains the motion on its merits in the interest of expediency.

On a motion to compel the production of discovery pursuant to CPLR 3124, the movant bears the burden of establishing a basis for the production of the discovery sought. *See Troshin v. Stella Orton Home Care Agency, Inc.*, 2018 NY Slip Op 30922(U) (Sup Ct N.Y. County May 11, 2018). Movant must "demonstrate that the ... discovery sought will result in the disclosure of relevant evidence or is reasonably calculated to lead to the discovery of information bearing on the claims." *Brito-Amezquita v. 928 Columbus Holdings LLC*, 2017 NY Slip Op 32514(U), at *4

(Sup Ct N.Y. County Nov. 24, 2017). The opposing party bears the burden of establishing the materials are immune or exempt from discovery. *See Ambac Assurance Corp. v. DLJ Mortg. Capital, Inc.*, 92 A.D.3d 451, 939 N.Y.S.2d 333 (1st Dep't 2012). If the resisting party previously asserted a privilege or immunity from disclosure, movant must establish on its motion to compel such production that the privilege or immunity does not apply. *See id.*

Even if the resisting party failed to timely assert an objection to the material sought, if the court finds that the demands were palpably improper or sought privileged material, response will not be compelled. *See Lea v. N.Y.C. Transit Auth.*, 57 A.D.3d 269, 867 N.Y.S.2d 918 (1st Dep't 2008). As to demands which are not palpably improper and which do not seek privileged information, if the party resisting disclosure failed to seek a protective order or otherwise timely object to production of the discovery sought, it will not be heard to object to the demand. *See Fiore v. Bay Ridge Sanitarium, Inc.*, 48 Misc. 2d 318, 264 N.Y.S.2d 421 (Sup Ct Kings County 1965).

Here, it is undisputed that plaintiff seeks the report taken by the defendants' insurer. Such a report "is conditionally privileged, which is to say that it is immune from discovery unless it can be established that a substantial equivalent of the material cannot be obtained by other means without undue hardship." *Recant v. Harwood*, 222 A.D.2d 372, 374, 635 N.Y.S.2d 231, 232 (1st Dep't 1995). Plaintiff obtained the substantial equivalent of the material by taking the deposition of the same person whose statement is contained in the report, and accordingly failed to show undue hardship. The court thus finds that the demand was improper, and the report is exempt from disclosure. *See Veltre v. Rainbow Convenience Store, Inc.*, 146 A.D.3d 416, 45 N.Y.S.3d 30 (1st Dep't 2017); *James v. Metro N. C. R.R.*, 166 A.D.2d 266, 560 N.Y.S.2d 459 (1st Dep't 1990); *Hill v. Misericordia Hosp. Med. Ctr.*, 91 A.D.2d 915, 457 N.Y.S.2d 541 (1st Dep't 1983).

Given that the production of the report is not being compelled herein and plaintiff has not advanced any other basis for an extension of the time to file the note of issue and certificate of readiness for trial, same is denied.

Strike Affirmative Defenses

Plaintiff moves to strike defendants' affirmative defenses. Defendants' answer asserted eighteen affirmative defenses. On or about January 7, 2016, plaintiff served a demand for a bill of particulars as to defendants' affirmative defenses. The February 23, 2016 preliminary conference order and August 16, 2016 compliance conference order both directed defendants to serve such bill of particulars. Defendants responded on or about December 15, 2016, largely claiming the prematurity of the demand and reserving their right to supplement their responses upon the completion of discovery. The only particular to which they objected outright was with respect to CPLR 4545, which they deemed evidentiary in nature and inappropriate for bill of particulars. By letter dated March 5, 2018, plaintiff demanded a substantive response and now moves to strike such affirmative defenses for defendants' failure to particularize.

Although a party is entitled to amend its bill of particulars once prior to the filing of the note of issue, *see* CPLR 3042(b), and although a party may amend a bill of particulars after the filing of the note of issue upon a finding of reasonable excuse for the delay and the lack of surprise or prejudice to the opponent, *see Schiff v. ABI One LLC*, 155 A.D.3d 543, 65 N.Y.S.3d 714 (1st Dep't 2017), it is not always wise to wait until the last minute to amend a bill of particulars to particularize. The amendment should be made upon the responding party's acquisition of sufficient knowledge to provide the particularization. *See McLean by Brunell v. Huntington Hosp.*, 227 A.D.2d 533, 642 N.Y.S.2d 951 (2d Dep't 1996). A party may be given time to supplement upon the completion of such discovery as will permit the framing of an

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adequate bill of particulars. *See Bernabe v. Long Island Coll. Hosp.*, 141 A.D.2d 595, 529 N.Y.S.2d 993 (2d Dep't 1988).

Here, defendants argue that outstanding discovery prevented more meaningful responses. Indeed, at the time they served their initial bill of particulars, no party had been deposed, and the most recent liability witness did not testify until March of this year. The court accordingly finds that the delay alone was not indicative of willfulness or contumacy. *See id.* Although defendants claim that they will supplement their responses at the *close* of discovery, they do not claim that they do not now possess sufficient information to supplement their responses. Nor do they claim that any discovery bearing on their responses remains outstanding. Plaintiff has not demonstrated prejudice emanating from the delay.

In the alternative, plaintiff moves pursuant to CPLR 3211(b) to dismiss the affirmative defenses. In opposition, defendants have withdrawn the first, fourth, fifth, sixteenth and seventeenth defenses.

Plaintiff moves to dismiss the second affirmative defense, which alleged plaintiff's contributory negligence and/or culpable conduct; the third affirmative defense, which alleged plaintiff's assumption of the risk; the sixth affirmative defense, which alleged plaintiff's failure to exercise reasonable care to appreciate defects; the seventh affirmative defense, which alleged that the claimed defects were open and obvious; and the thirteenth affirmative defense, which alleged defendants' lack of notice of any defective condition. Plaintiff argues the defenses are inapplicable to a Labor Law § 240(1) claim. The defenses, however, remain relevant and applicable to the other claims and will not be dismissed.

To the extent plaintiff argues that the lack of merit of the thirteenth defense is established as a matter of law by plaintiff's testimony of the lack of rubber footings, plaintiff himself

testified that he did not notice any such defect until after the accident and prior to the accident had no indication that the ladder was going to shift; accordingly, the issue of notice remains.

Furthermore, to the extent plaintiff argues that defendants cannot be found to have fifty per cent or less of the total liability assigned to all parties, contributory fault is a defense to the remaining causes of action. Accordingly, the ninth affirmative defense, which alleged the applicability of Article 16 apportionment of liability, will not be dismissed.

The eighth affirmative defense alleged that there was no Labor Law liability, given the circumstances of plaintiff's presence on the premises. The twelfth affirmative defense alleged plaintiff's failure to use available safety devices and/or to heed warnings. Plaintiff claims that his establishment of Labor Law § 240(1) liability renders the defenses meritless. As set forth above, however, the issue has not been resolved in plaintiff's favor. The defenses will not be dismissed.

The fourteenth affirmative defense alleged plaintiff's actions were the sole proximate cause of the accident. Defendants argue the defense is supported by plaintiff's testimony as to how he used the ladder but they do not identify which aspect of this testimony is relevant. A plaintiff may be found to be the sole proximate cause of an accident where he chooses to use a ladder that is too short. *See e.g. Robinson v East Med. Ctr., LP*, 6 N.Y.3d 550, 554, 847 N.E.2d 1162, 814 N.Y.S.2d 589 (2006). Here, however, there is no evidence that plaintiff had a choice as to the ladder used, nor do defendants point to any evidence that plaintiff unreasonably chose not to use available safety devices. *See Nacewicz v. Roman Catholic Church of the Holy Cross*, 105 A.D.3d 402, 402-3, 963 N.Y.S.2d 14, 16 (1st Dep't 2013). This defense may be dismissed.

The fifteenth affirmative defense alleged the accident was attributable to conditions defendants had no authority to correct. Plaintiff assumes this was intended to refer to physical conditions; however, defendants argue the defense was also intended to refer to their lack of

control over the means and methods of plaintiff's work. Given the nature of plaintiff's work, the relationship of the parties, and the instruction plaintiff claimed to receive from Gleicher, it cannot be said on this record that the defense is meritless as a matter of law.

The eighteenth affirmative defense merely reserves the right to assert further defenses and is not a defense in and of itself. It may therefore be stricken. In any event, regardless of defendants' reservation of rights, amendment to assert new defenses is governed by CPLR 3025 and attendant caselaw. Defendants did not oppose dismissal of the defense.

This facet of plaintiff's motion is therefore granted to the extent of dismissing defendants' fourteenth and eighteenth affirmative defenses, deeming withdrawn defendants' first, fourth, fifth, sixteenth and seventeenth affirmative defenses and directing supplementation of the remaining defenses.

Accordingly, it is

ORDERED, that plaintiff's motion for partial summary judgment on the issue of defendants' liability on the Labor Law § 240(1) claim, an order compelling defendants' exchange of discovery, dismissal of defendants' affirmative defenses and extension of the time to file the note of issue is granted to the extent that defendants' first, fourth fifth, sixteenth and seventeenth affirmative defenses are deemed withdrawn, defendants' fourteenth and eighteenth affirmative defenses are dismissed, and defendants shall, within thirty (30) days after service of a copy of this order with written notice of its entry, supplement the remaining affirmative defenses; and it is further

ORDERED, that the Clerk of the Court is directed to enter judgment in favor of plaintiff dismissing defendants' fourteenth and eighteenth affirmative defenses; and it is further

ORDERED, that defendants' cross-motion for summary judgment dismissing the

complaint is granted to the extent of dismissing the complaint against defendant GW Third Avenue, LLC and dismissing the Labor Law § 240(1) and 241(6) causes of action against defendant Third Avenue Open MRI, Inc.; and it is further

ORDERED, that the Clerk of the Court is directed to enter judgment in favor of defendant GW Third Avenue, LLC dismissing the complaint insofar as asserted against it; and it is further

ORDERED, that the Clerk of the Court is directed to enter judgment in favor of Third Avenue Open MRI, Inc. dismissing plaintiff's Labor Law § 240(1) and 241(6) causes of action.

This constitutes the decision and order of the court.

Dated: June 18, 2018

Lucindo Suarez, J.S.C.