SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: PART 30

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ANDREW GARR and AUDREY GARR,

Plaintiffs,

-against-

NEW FORCE CONSTRUCTION CORP.

Defendant.

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NEW FORCE CONSTRUCTION CORP.

Third-Party Plaintiff,

-against-

SUTTON OWNERS CORP., GUMLEY-HAFT, LLC, JMJ ENTERPRISES, INC., HART SLOCUM CONSTRUCTION CORP., O'DONNELL ARCHITECTS, LCC, and THE CEDARS GROUP, INC.,

Third-Party Defendants.

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Index No. 152590/16
Motion Sequence 01-02

DECISION AND ORDER

SHERRY KLEIN HEITLER, J.S.C.

Motion Sequence 001 and 002 are consolidated for disposition.

This is a property damage case arising from construction work. By way of background, plaintiffs Andrew and Audrey Garr (Plaintiffs) owned two apartments at 35 Sutton Place in Manhattan which they combined into one unit (20 C-D). The building where Plaintiffs' apartment is located is a 21-story cooperative with approximately 140 units. The building is operated by third-party defendant Sutton Owners Corp. (Sutton) and managed by third-party defendant Gumley-Haft Corp. (Gumley-Haft) on Sutton's behalf.

In or about March of 2014 defendant New Force Construction (New Force) and Sutton entered into a contract for New Force to replace the building's south facade.[1] Notably, the contract

[1] Plaintiffs' exhibit D (March Agreement)

[1]

provides that New Force would supervise the repairs and would have sole responsibility for the methods and means of the work (March Agreement, Rider to Agreement Between Owner and Contractor, Article 8, Supervision, p. 9):

> 8.01 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract.
>
> 8.03 The Contractor shall erect and maintain . . . all reasonable safeguards for safety and protection, including positing danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent utilities.

Sutton also engaged third-party defendant O'Donnell Architects (O'Donnell) as a consulting architect to recommend the scope of repairs and prepare bid packages.

During the course of the facade work, in or about December of 2014, New Force discovered that a railing had been left behind the brick masonry which compromised the structural integrity of a wall. This railing was directly outside Plaintiffs' apartment. New Force proposed fixing the condition. However, Mr. Wlodkowski (New Force) warned, in an email to Messrs Warshavsky (Gumley-Haft), Ashton (Sutton) and O'Donnell (O'Donnell), that the work could cause damage to the interior of Plaintiffs' apartment (email dated January 12, 2015):

> Please be advised that New Force Construction strongly recommends removal of the windows at the apartment 20D, rebuilding of the balcony parapet and the reinstallation of the windows.
>
> Please be advised that shoring installation . . . may cause damages to interiors due to the existing conditions of the backup masonry and improper windows installation.

As part of its bid, New Force sought to be held harmless for any claims for damages arising out of its repair work related to this proposal, but it does not appear that this provision was approved by Sutton or by Plaintiffs.[2] A December 13, 2014 proposal – without the "hold harmless" language – was marked "approved" by Mr. O'Donnell on December 16. A second proposal dated December

[2] New Force's proposal and accompanying documents (proposals dated 12/13/14 and 12/16/2014, and Note to Gumley-Haft from Mr. Wlodkowski with "hold harmless" language) are submitted as Plaintiffs' exhibit E (December Proposal).

16, 2014 which included the "hold harmless" language was neither marked approved nor signed. The facade repair work was completed in the spring of 2016, including the modification to the brick outside Plaintiffs' apartment.

Plaintiffs allege that New Force's negligence in performing these repairs caused significant damage to their apartment, including cracked walls, buckled floors, damaged appliances, and the accumulation of significant dust and debris. Plaintiffs estimate that they have sustained over $500,000 in damages.[3]

New Force now moves for summary judgment (MS 001) pursuant to CPLR 3212 for an order dismissing Plaintiffs' complaint and all cross-claims and counter-claims against it. New Force argues that it owed no duty to Plaintiffs since its contract was with Sutton Owners Corp., and that even if it did owe Plaintiffs a duty of care, there is no evidence to show that New Force's actions were a substantial cause of Plaintiffs' injuries. Sutton and third-party defendant Gumley-Haft do not oppose New Force's motion but argue that their third-party claims should proceed if the court finds there to be issues of fact. Plaintiffs oppose New Force's motion in its entirety, claiming that New Force's negligence caused the damage to Plaintiffs' apartment.

O'Donnell asserts that the third-party complaint (MS 002) should be dismissed because it played no role with respect to the measures New Force and Sutton took to protect Plaintiffs' apartment from damage. New Force argues in opposition that there are triable issues of fact with respect to O'Donnell's supervisory authority during the renovation project and its direct involvement in New Force's work, including its inspection and certification of such work. Plaintiffs have not taken a position with respect to O'Donnell's motion.

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[3] See Plaintiff's exhibit G.

Audrey Garr was deposed on November 16, 2017 and April 4, 2018.[4] The majority of her testimony concerned the damage to her apartment, appliances, and furnishings. As is relevant to this motion, she testified that when she first noticed dust in her apartment she complained to the building's resident manager, who assisted her in covering the inside of her windows with plastic tarp and removing her air conditioner and securing the void so that dust would not get inside. Ms. Garr testified that dust accumulated even with these protective measures and that the construction caused cracks in her walls, moldings, and floors that have not been repaired.

Norbert Wlodkowski was deposed on behalf of New Force on April 26, 2018 and June 12, 2018.[5] He described how the work began with the erection of scaffolding and the removal of bricks from the top of the building down towards the ground. The bricks were placed into bags, hoisted down, and placed into dumpsters. During this process New Force placed plastic tarps over the outside of the building's windows and other openings. After the old bricks were removed, New Force employees installed new bricks.

Mr. Wlodkowski testified that his employees sealed the outside of the building with plastic, but that he received no instructions with respect to the building's interior. It was his belief that building staff determined the extent to which interior windows and air conditioning units would be protected (Wlodkowski Deposition, pp. 178-9, 198-9):

Q. … At 35 Sutton Place, for the job that you were doing, in addition to the protection that you provided to the window exterior, did you have an understanding that there was going to be protection provided to the interior windows at the building?

A. Yes.

Q. What did you understand that was going to be?

A. Well, that was discussed prior to starting the project, that the protection, that we spoke earlier about, on the exterior may not provide complete protection from any dust entering inside the apartments.

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[4] Audrey Garr's deposition transcripts are submitted as Plaintiffs' exhibit B (Garr Deposition).
[5] Norbert Wlodkowski's deposition transcripts are submitted as Plaintiffs' exhibit C (Wlodkowski Deposition).

Q. Were you asked to do any protection of the apartment unit windows on the inside in any apartment in the building?

A. No.

Q. Were you asked as to what should be done to protect the apartments on the inside?

A. No.

* * * *

Q. And did you have an understanding whether the air conditioning through-wall units would be protected on the inside?

A. Of course.

Q. What was your understanding of what would be done?

A. Well, the understanding was that any interior wall, at the area of our work, will be completely protected and sealed with plastic. I mean, any methods taken, we were – we didn't . . . and none of my employees, as far as I know, we didn't take part in that. We wasn't allowed into the interiors. That was building staff, that -- I believe that was building staff, because I don't really know, I didn't witness that.

Mr. Wlodkowski conceded that the accumulation of dust and debris would have come from his company's masonry work and that his employees were responsible for the manner in which the construction was completed (*Id.* at 213, 225).

Additionally, testimony was elicited regarding the exterior wall condition outside of Plaintiffs' apartment. Mr. Wlodkowski stated that he drafted a proposal at Mr. O'Donnell's request including "window-shoring installation" to address the defective condition. *Id.* at 85-6. He attached the proposal to an email to Messrs Warshavsky, Ashton and O'Donnell stating: "Please see attached … approved proposal (December Proposal)…. Kindly confirm that New Force will not be held responsible for any damages related to this work due to existing conditions and [im]proper windows installation." *Id.* at 82. Mr. Wlodkowski stated that he attended a meeting regarding the condition of the exterior wall of apartment 20D to discuss opening up a probe[6] (*id.* at 83-4):

> But the probe – when we removed the masonry – and I believe the architect was present at that time – we discovered an old metal railing that was delaminated and rusted out, expanding and pushing the masonry. Also, when we removed the brick masonry, we were able to see the

[6] According to Mr. Wlodkowski, a probe is "an inspection to witness the conditions (therein)." Wlodkowski Dep. p. 126.

> interior studs and framing.... Yeah, so that was a different condition than we would expect, because everywhere else right behind the brick masonry there would be cinderblocks as a backup masonry. There was lack of that masonry. So pretty much right behind that there were interiors of that apartment.

Mr. Wlodkowski stated that the issue with the large window was noticed during "a regular meeting" that happened to be taking place on scaffolding outside of the window, "and someone happened to press on the glass panel of that window." *Id.* at 191. These weekly meetings were attended by a building manager and a resident manager and the architect. *Id.* at 190. The purpose of the meetings was to ensure that "every step of the work was checked prior to starting any further work. *Id.* at 190-1. Mr. Wlodkowski stated that, after the proposal was submitted, the area was skipped over until a decision on how to proceed was provided by Mr. O'Donnell and Mr. Warshavsky. *Id.* at 93.

Mr. Wlodkowski was asked who from New Force was responsible for directing the construction means, methods, techniques, sequences and procedures of the work as elaborated in Section 9.2.1 of the New Force contract. Mr. Wlodkowski responded that it was he and his partner and the project manager (Marcin Palka) and the site super (Grzegorz Radgowski). *Id.* at 221-3. Mr. Wlodkowski was also asked about Section 10.2 of the contract (March Agreement, p. 9):

> The architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the work. The architect will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences, or procedures or for safety precautions and programs in connection with the work, since these are solely the contractor's rights and responsibilities under the contract documents.

He responded that these same New Force representatives, including himself, would be responsible for the "construction means, methods – et cetera – referred to in section 10.2". Wlodkowski Dep., pp. 224-5. Mr. Wlodkowski acknowledged that New Force "[d]id not enter into any agreement, written or otherwise, with O'Donnell Architects with respect to this project and that the only agreement that New Force had was with the owners of the building." Wlodowski Dep., p. 255.

Mr. Wlodkowski was asked if he understood that part of New Force's responsibilities included protecting the property that was contained within 35 Sutton Place's various apartments. Specifically, in response to being asked "who from New Force was responsible to make sure that the interiors of the building, the people's apartments, would be protected from damage caused by New Force's work?", Mr. Wlodkowski replied that the "super/foreman, then project manager, and then it's me and my partner who's overlooking all that." *Id.* at 300.

Sutton's resident manager, James Soler, was deposed on July 11, 2018.[7] Mr. Soler started working for Sutton after the repairs began, but confirmed that Sutton provided interior protection to the building's apartments while New Force completed the facade replacement. This protection included plastic tarps and tape around the inside of the windows and air conditioners. Mr. Soler also testified that he received several complaints about the construction from Ms. Garr, but that he referred them to Gumley-Haft or to O'Donnell. Mr. Soler believed that New Force was responsible for making repairs to Plaintiffs' apartment because it was the contractor hired to perform the facade work. Soler Dep., pp. 32, 54-5, 91.

Alan Warshavasky was deposed on behalf of Gumley-Haft on August 28, 2018.[8] He testified that once he became aware of the dust issue in the building related to the facade work he directed that the entire building be protected to try and contain the situation. Mr. Warshavasky worked with the former resident manager, John Ashton, who chose what kind of protection was needed for the inside of each apartment. New Force, in turn, covered the exterior windows and air conditioning units in plastic. Warshavasky Dep., pp. 19, 49-50, 62-3. In relation to the Garrs' apartment specifically, Mr. Warshavsky testified that "John (Ashton) had a longterm relationship

[7] Mr. Soler's deposition transcript is submitted as exhibit N to New Force's motion (Soler Deposition).

[8] Mr. Warshavasky's deposition transcript is submitted as exhibit O to New Force's motion (Warshavasky Deposition).

with the Garrs. The Garr[s], as I understand it, brought John to the building and John told Brian O'Donnell himself that he would take care of or handle any issue with the Garrs himself." *Id.* at 64.

Brian O'Donnell of O'Donnell Architects was deposed on August 22, 2018.[9] He testified that prior to the construction his company has been retained by Sutton as its consulting architect for over 10 years. As it relates to the facade work, O'Donnell was hired to prepare the scope of the work, prepare and solicit bid packages, and inspect New Force's work, and its involvement in the facade project was limited to design and inspection. O'Donnell stated, "It was my understanding that protection (of the building interior) was being put in … [a]nd the building staff was responsible for that." O'Donnell Dep., p. 33. He responded "[n]o" when asked "[d]id John Ashton ask you to do anything, with respect to the dust going into the Garr's apartment." O'Donnell Dep., p. 38. Furthermore, he responded "[n]o" when asked "[d]id you ever have any discussions with the (*sic)* anyone at New Force about any claims the Garrs were making regarding the interior of their unit, during the course of the construction." *Id.* at 75. Mr. O'Donnell conceded that one purpose of the weekly meetings was to coordinate the protection, but insisted that this remained the responsibility of New Force and Sutton (*id.* at 68-9):

Q. Was that (the protection of the inside of the apartments) ever discussed, at any of the meetings?

A. It was, because as New Force progressed down the façade with their demolition, the building had to understand where they were and where they were going and where to put the protection up next.

Q. And did you have any role in any precautions that were taken to the inside of the building, prior to the construction work beginning?

A. No

Q. Did you ever have any discussions with the Garrs about the infiltration of dust or construction materials inside their unit, as the result of the work that was taking place outside?

A. No.

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[9] Mr. O'Donnell's deposition transcript is submitted as exhibit K to O'Donnell's motion (O'Donnell Deposition).

Q. Were you on site at 35 Sutton Place, during the construction work that New Force was undertaking with respect to the facade restoration.

A. … I was there once a week and – and at times, more frequently.

Mr. O'Donnell stated that, in addition to never having any discussions with the Garrs regarding the interior of their unit, he never had conversations with anyone at Gumley-Haft or the building itself about same. *Id.* at 75-6. He testified that O'Donnell had nothing to do with the measures used by New Force to protect the outside of the building or those used by Sutton's building managers to protect the building's interior (*id.* at 42-3, 58-9):

Q. So you were aware that New Force had stated that they were not going to be held responsible for the work, if there was a problem with the windows, correct? . . .

A. Well . . . I don't know if I can answer your question. I can tell you though, that when we found an issue, when we found a problem . . . we addressed it. . . .

Q. You said, "we." Who are you referring to?

A. New Force addressed it. And I was – I was part of that troubleshooting that . . . We would agree on what needed to be done, and then New Force would take care of it. We would -- in-- in essence, it was no different than the contract documents that we prepare. We would design something, New Force would implement it.

* * * *

Q. Okay. Prior to the restoration work at the south courtyard, what precautions were taken, to protect the units from the construction?

A. There was plastic put on the outsides of the windows and – well, I wouldn't – a number of things while demolition were [*sic*] going on. They would put plywood out so that they -- the debris would fall onto the scaffold, plastic was put on the windows, and then the building was installing, to my knowledge, was installing interior protection.

Q. When you said "they", do you mean New Force, in terms of those plastic --

A. The plastic on the outside of the windows was New Force, yes. . . And then the plastic on the inside was the building.

Q. Right. And who was responsible for doing that work on the building on the inside?

A. John Ashton would have been responsible for directing his staff to do it. . . .

Q. Okay. With respect to the plastic coverings on the outside of the building that was done by New Force, did you have any role in the installation of such plastic tarps or coverings?

A. No.

Q. Did they ever consult you on what your thoughts were on what kind of precautions should have been taken to protect the building?

A. No.

For the reasons set forth below, New Force's motion is denied in its entirety and O'Donnell's motion is granted in its entirety.

DISCUSSION

"Summary judgment is a drastic remedy, to be granted only where the moving party has 'tender[ed] sufficient evidence to demonstrate the absence of any material issues of fact' and then only if, upon the moving party's meeting of this burden, the non-moving party fails 'to establish the existence of material issues of fact which require a trial of the action.'" *Vega v Restani Constr. Corp.*, 18 NY3d 499, 503 (2012) (quoting *Alvarez v Prospect Hosp.*, 68 NY2d 320, 324 [1986]); *see also Zuckerman v City of New York*, 49 NY2d 557, 562 (1980). "This burden is a heavy one and on a motion for summary judgment, facts must be viewed in the light most favorable to the non-moving party." *Jacobsen v New York City Health & Hosps. Corp.*, 22 NY3d 824, 833 (2014) (quoting *William J. Jenack Estate Appraisers & Auctioneers, Inc. v Rabizadeh*, 22 NY3d 470, 475 [2013]). "[R]ank speculation is not a substitute for the evidentiary proof in admissible form that is required to establish the existence of a triable question of material fact." *Castore v Tutto Bene Restaurant Inc.*, 77 AD3d 599, 599 (1st Dept 2010); *see also Kane v Estia Greek Rest., Inc.*, 4 AD3d 189, 190 (1st Dept 2004).

I. New Force's Motion For Summary Judgment

Plaintiffs' claims against New Force sound in common law negligence. To proceed with a negligence claim, Plaintiffs must show that New Force owed Plaintiffs a duty of care, breached that duty, and that the breach was a proximate cause of Plaintiffs' injuries. *See Solomon v City of New York*, 66 NY2d 1026, 1027 (1985). "Because a finding of negligence must be based on the breach of a duty, a threshold question in tort cases is whether the alleged tortfeasor owed a duty of care to the injured party." *Espinal v Melville Snow Contrs.*, 98 NY2d 136, 138 (2002). In general, "a contractual obligation, standing alone, will generally not give rise to tort liability in favor of a third

party." *Id.* at 138. However, a party who enters into a contract to render services may be deemed to have assumed a duty of care to a third party in three situations: "(1) where the contracting party, in failing to exercise reasonable care in the performance of his duties, 'launche[s] a force or instrument of harm;' (2) where the plaintiff detrimentally relies on the continued performance of the contracting party's duties[;] and (3) where the contracting party has entirely displaced the other party's duty to maintain the premises safely." *Id.* at 140 (citations omitted).

Plaintiffs argue that all three exceptions apply, but in the court's opinion the "force of harm" prong is most applicable given Plaintiffs' claim that New Force's negligence in sealing the building's exterior during the facade work caused Plaintiffs' damages. In this regard, the evidence is clear that New Force was contractually responsible for the means and methods of the work as well as for protecting the building from the exterior as a preventative measure. There is also no dispute that New Force knew the masonry work outside of Plaintiffs' apartment had the potential to cause damage to the apartment. The court recognizes that New Force sought to be held harmless for any claims that might arise from such work, but there is no evidence that Sutton, Plaintiffs, or any of the other parties agreed to same. Based upon the above, the court finds that New Force owed Plaintiffs a duty of care and can therefore be held liable in negligence should Plaintiffs prove that New Force's acts contributed to Plaintiffs' damages.

In terms of damages, New Force essentially tries to shift liability to third-party defendants O'Donnell and Sutton for not doing enough to secure the building's interior. But "[t]he mere fact that other persons share some responsibility for plaintiff's harm does not absolve defendant from liability because 'there may be more than one proximate cause of an injury." *Mazella v Beals*, 27 NY3d 694, 706 (2016) (quoting *Argentina v Emery World Wide Delivery Corp.*, 93 NY2d 554, 560 n.2 [1999]). What is important for summary judgment purposes is that New Force performed the work knowing that it might damage Plaintiffs' apartment and Mr. Wlodkowski's testimony that any

damage to Plaintiffs' apartment necessarily would have been the result of New Force's work. Whether New Force exercised due care notwithstanding and whether certain other parties bear some responsibility for Plaintiffs' injuries are questions best left to a jury.

II. O'Donnell's Motion for Summary Judgment

New Force's third-party claims against O'Donnell sound in contribution and indemnification. O'Donnell asserts that these claims should be dismissed because it had nothing to do with the means and methods of the facade work and had no control over the extent to which Sutton and New Force chose to protect the building from dust and debris. These decisions, according to O'Donnell, were left to New Force with respect to the building's exterior and Sutton with respect to the building's interior.

New Force's position is that the testimony evinces O'Donnell's significant involvement in the facade project - from design to inspection to weekly meetings - which together raise an issue of fact that precludes summary judgment.[10] The court disagrees. The main case cited by New Force in support of its claim that O'Donnell should be held liable for contribution is inapposite. *Structure-Tone, Inc. v Ignelzi Interiors, Inc.*, 835 NYS 2d 129 (1st Dept 2007) was decided on a motion to dismiss, not on summary judgment, and that court found that the pleadings with respect to contribution could pass muster. Here, New Force has not marshalled evidence of O'Donnell's purported direction and control over the work, and more specifically its responsibility for protecting the building, to raise an issue of fact under the stricter summary judgment standard.

Viewing the contracts and testimony in their entirely, the court finds that O'Donnell has demonstrated its *prima facie* entitlement to summary judgment. While Mr. O'Donnell and O'Donnell Architects clearly were involved with many aspects of the work on the exterior of 35

[10] None of the other third-party defendants have opposed O'Donnell's motion. As such, any cross-claims against O'Donnell are deemed to be abandoned.

Sutton Place, they were not responsible for the exterior work and they certainly were not responsible for the interior of the building. To be sure, O'Donnell was the architect of record for this project, prepared and solicited bids for the facade work and even signed off on the additional repair work on the exterior of Plaintiffs' apartment. O'Donnell attended and contributed to weekly meetings regarding the progress of the entire facade and was involved in several discussions about the plastic protections of the building exterior. However, O'Donnell's knowledge of these issues – and even its involvement in the discussions about New Force's chosen safety measures – does not mean that it can be held responsible for the alleged damage to Plaintiffs' apartment. O'Donnell never assumed a duty to New Force or to Plaintiffs to ensure that the measures used to protect the building were adequate.

None of the *Espinal* situations noted above apply here. There has been no showing that O'Donnell failed to exercise reasonable care in the performance of his duties, much less that it "launched a force or instrument of harm"; New Force did not detrimentally rely on the continued performance of O'Donnell's duties; and there is insufficient evidence to suggest that O'Donnell entirely displaced New Force's duty to maintain the premises safely. *See Espinal* at 140. *See also 87 Chambers, LLC. v 77 Reade, LLC*, 122 AD3d 540, 541(1st Dept 2014) ("[Architect]'s involvement in discussions related to the means and methods to be employed in the [construction phase], and its general responsibilities to visit the site during construction to monitor compliance with the contract, do not raise an issue of fact as to whether it entirely displaced the owner's duty to maintain the premises."). As such, New Force's contribution claims must be dismissed. *See id.* ("Plaintiffs' negligence claim against [architect] should have been dismissed because [architect]'s contractual obligations to the owner of [defendant's] property do not give rise to tort liability in favor of plaintiffs.").

Moreover, given that New Force and O'Donnell had no written agreement between them, and in light of the court's finding that New Force's liability for Plaintiffs' injuries is a jury question, New Force cannot proceed with its indemnification claims at this time. Contractual indemnification is only available to parties in privity of contract, and here there can be no dispute that New Force and O'Donnell had no contractual relationship. Common law indemnification is only available where the party seeking to be relieved of liability is free from any acts of wrong-doing (New Force) and where the proposed indemnitor (O'Donnell) committed negligence that proximately caused the injuries. *See Lewis-Moore v Cloverleaf Tower Hous. Dev. Fund Corp.*, 26 AD3d 292, 292 (1st Dept 2006) ("A party seeking indemnification must prove not only that it was free of negligence, but also that the proposed indemnitor negligently contributed to the cause of the accident . . . ."); *County of Westchester v Welton Becket Assoc.*, 102 AD2d 34, 47 (2d Dept 1984) ("If there is actual wrongdoing by the person seeking to assert an indemnification claim, that claim is not viable."). As there are issues of fact regarding New Force's liability, New Force's indemnification claim against O'Donnell must fail at this time.

CONCLUSION

In light of the foregoing, it is hereby

ORDERED that New Force's motion for summary judgment is denied in its entirety; and it is further

ORDERED that O'Donnell's motion for summary judgment is granted; and it is further

ORDERED that all claims and cross-claims against O'Donnell are hereby severed and dismissed with prejudice, except New Force's claim for common-law contribution, which is hereby dismissed without prejudice to renew depending upon the outcome of the main action; and it is further

ORDERED that all remaining causes of action shall continue as against all remaining defendants and third-party defendants; and it is further

ORDERED that counsel appear for a pre-trial conference in Part 30 on August 5, 2019 at 10:00AM.

The Clerk of the Court shall mark his records accordingly.

This constitutes the decision and order of the court.

ENTER:

DATED: June 27, 2019

SHERRY KLEIN HEITLER, J.S.C.