

Morrison v Buffalo Urban Renewal Agency
2020 NY Slip Op 34751(U)
October 14, 2020
Supreme Court, Erie County
Docket Number: Index No. 809488/2018
Judge: Catherine Nugent Panepinto
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At a Special Term of the Supreme Court, Part 2, held in and for the County of Erie, at the Erie County Courthouse, 92 Franklin Street, Buffalo, New York, on the 24th day of September, 2020.

P R E S E N T: Hon. Catherine Nugent Panepinto, J.S.C.,
Justice Presiding

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

GWYNNE MORRISON,

Plaintiff,

vs.

BUFFALO URBAN RENEWAL AGENCY,
WESTERN NEW YORK ARENA, LLC,
JAMES NIESWIADOMY DBA: EMPIRE
LANDSCAPING,

Defendants.

ORDER

Index No.: 809488/2018

Defendant, James Nieswiadomy DBA: Empire Landscaping, having moved this Court by notice of motion dated June 4, 2020 for an order granting summary judgment in its favor, dismissing the complaint of plaintiff, Gwynne Morrison, in its entirety, including any and all claims and cross-claims, on the merits, and with prejudice, and granting such other and further relief as this Court may deem just and proper; defendants, Western New York Arena, LLC and Buffalo Urban Renewal Agency, having moved this Court by notice of motion dated July 15, 2020, for an order granting summary judgment in their favor, dismissing the complaint of plaintiff, Gwynne Morrison, in its entirety, including any and all claims and cross-claims, on the merits, and with prejudice, and granting such other and further relief as the Court may deem just and proper; and plaintiff, Gwynne Morrison, having cross-moved this Court by notice of cross-

motion dated September 2, 2020, for an order granting summary judgment in her favor on the issue of negligence as against defendant, Western New York Arena, LLC, together with any other relief the Court deems just and proper; and

NOW, upon the reading of the affirmation of Melissa M. Morton, Esq., attested to June 4, 2020, with attached exhibits, the affirmation of Melissa M. Morton, Esq., attested to September 3, 2020, and the reply affirmation of Melissa M. Morton, Esq., attested to September 17, 2020, all submitted in support of the motion for summary judgment of defendant, James Nieswiadomy DBA: Empire Landscaping and in opposition to that portion of the motion for summary judgment of defendants, Western New York Arena, LLC and Buffalo Urban Renewal Agency, seeking dismissal of the cross-claims of defendant, James Nieswiadomy DBA: Empire Landscaping; the affirmation of Kirstie A. Means, Esq., attested to July 15, 2020, with attached exhibits, the affidavit of Samuel Buffum, sworn to July 9, 2020, with attached exhibits, the affidavit of Stan Makowski, sworn to July 9, 2020, with attached exhibits, and the affirmation of Scott C. Billman, attested to June 12, 2020, the affirmation of Kirstie A. Means, Esq., attested to September 2, 2020, with attached exhibit, the affirmation of Kirstie A. Means, Esq., attested to September 17, 2020, and the affidavit of Stan Makowski, sworn to September 16, 2020, with attached exhibits, all in support of the motion for summary judgment of defendants, Western New York Arena, LLC and Buffalo Urban Renewal Agency, in opposition to the cross-motion for summary judgment of plaintiff, Gwynne Morrison, and in opposition to that portion of the motion for summary judgment of defendant, James Nieswiadomy DBA: Empire Landscaping, seeking dismissal of the cross-claims of defendants, Western New York Arena, LLC and Buffalo Urban Renewal Agency; and the affirmation of David J. Wolff, Jr., Esq., attested to September 2, 2020, with attached exhibits, in support of the cross-motion for summary judgment of plaintiff,

Gwynne Morrison, in opposition to the motion for summary judgment of defendant, Western New York Arena LLC, in response to the motion for summary judgment of defendant, Buffalo Urban Renewal Agency, and in response to the motion for summary judgment of defendant, James Nieswiadomy DBA: Empire Landscaping; and

UPON hearing oral argument by Gibson, McAskill & Crosby, LLP (Melissa M. Morton, Esq., of counsel), attorneys for the defendant, James Nieswiadomy DBA: Empire Landscaping; Harris Beach, PLLC (Kirstie A. Means, Esq., of counsel), attorneys for the defendants, Buffalo Urban Renewal Agency and Western New York Arena, LLC; and Cantor, Wolff, Nicaastro & Hall LLC (David J. Wolff, Jr., Esq., of counsel), attorneys for plaintiff, Gwynne Morrison; and with due deliberation having been had thereon, it is hereby

ORDERED that the motion for summary judgment of defendant, James Nieswiadomy DBA: Empire Landscaping, is in all respects GRANTED; and it is hereby further

ORDERED that the complaint of plaintiff, Gwynne Morrison, and all cross-claims as against defendant, James Nieswiadomy DBA: Empire Landscaping, are dismissed in their entirety, on the merits and with prejudice; and it is hereby further

ORDERED that the motion for summary judgment of defendant, Buffalo Urban Renewal Agency, is in all respects GRANTED; and it is hereby further

ORDERED that the complaint of plaintiff, Gwynne Morrison, and all cross-claims as against defendant, Buffalo Urban Renewal Agency, are dismissed in their entirety, on the merits and with prejudice; and it is hereby further

ORDERED that the motion for summary judgment of defendant, Western New York Arena LLC, is in all respects DENIED; and it is further

ORDERED that the cross-motion for summary judgment of plaintiff, Gwynne Morrison,
is in all respects DENIED.



Hon. Catherine Nugent Panepinto, J.S.C.

GRANTED: October 14, 2020