SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: PART 42

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GREAT NORTHERN INSURANCE COMPANY a/s/o GUY HALFTECK and DR. GUY HALFTECK,

Plaintiffs,

- v -

STEPHEN NELSON, BSH HOME APPLIANCE, MUNA ABU-SHAR, 303 WEST EIGHTIETH STREET CONDOMINIUM ASSOCIATION, BOARD OF MANAGEMENTS OF 303 WEST EIGHTIETH STREET CONDOMINIUM, ANDREA BUNIS MANAGEMENT, INC.,COTEL CONTRACTING AND RENOVATION, LLC,COTEL CONTRACTING, INC.,CALDERON CONSTRUCTION, INC.,QUETZAL CONSTRUCTION CORP., NASCO PARTNERS LIMITED LIABILITY COMPANY, SYSTEMS 2000 PLUMBING SERVICE, INC.,TAUBE MANAGEMENT CORP., HECTOR SERRANO, BSM HOME APPLIANCES CORPORATION and THE 303 WEST EIGHTEENTH STREET CONDOMINIUM a/k/a 303 WEST EIGHTEENTH STREET CONDOMINIUM ASSOCIATION,

Defendants.

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**INDEX NO.** 159606/2013

**MOTION DATE** 02/12/2022

**MOTION SEQ. NO.** 004 005 006 007 008 009

**DECISION + ORDER ON MOTION**

MUNA ABU-SHAR,

Plaintiff,

-against-

303 WEST EIGHTIETH STREET CONDOMINIUM ASSOCIATION, BOARD OF MANAGERS OF 303 WEST EIGHTIETH STREET CONDOMINIMUM, ANDREA BUNIS MANAGEMENT, INC., COTEL CONTRACTING AND RENOVATION, LLC, COTEL CONTRACTING, INC., CALDERON CONSTRUCTION, INC., QUETZAL CONSTRUCTION CORP., NASCO PARTNERS LIMITED LIABILITY COMPANY, SYSTEMS 2000 PLUMBING SERVICE, INC., TAUBE MANAGEMENT CORP. and HECTOR SERRANO,

Defendants.

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Third-Party
Index No. 595217/2015

HON. NANCY M. BANNON:

The following e-filed documents, listed by NYSCEF document number (Motion 004) 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 258, 279, 286, 301, 307, 317, 318, 319, 320, 321, 322, 323, 324, 325, 347, 348, 349, 350, 381, 392, 398

were read on this motion to/for JUDGMENT - SUMMARY.

The following e-filed documents, listed by NYSCEF document number (Motion 005) 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 220, 221, 255, 256, 257, 259, 280, 287, 302, 308, 326, 327, 328, 329, 330, 331, 332, 351, 352, 353, 354, 355, 356, 357, 378, 379, 382, 393, 447, 448

were read on this motion to/for JUDGMENT - SUMMARY.

The following e-filed documents, listed by NYSCEF document number (Motion 006) 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 253, 254, 260, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 281, 288, 292, 293, 294, 298, 299, 300, 303, 312, 313, 333, 334, 335, 336, 337, 338, 339, 358, 359, 360, 361, 362, 363, 364, 365, 366, 370, 371, 372, 375, 383, 387, 390, 394, 440, 441, 466, 467, 473, 477

were read on this motion to/for JUDGMENT - SUMMARY.

The following e-filed documents, listed by NYSCEF document number (Motion 007) 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 261, 282, 289, 304, 309, 340, 341, 342, 343, 344, 345, 346, 384, 395

were read on this motion to/for JUDGMENT - SUMMARY.

The following e-filed documents, listed by NYSCEF document number (Motion 008) 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 262, 283, 290, 305, 310, 314, 315, 316, 377, 385, 396

were read on this motion to/for JUDGMENT - SUMMARY.

The following e-filed documents, listed by NYSCEF document number (Motion 009) 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 263, 284, 291, 306, 311, 367, 368, 369, 376, 386, 397, 442, 443

were read on this motion to/for JUDGMENT - SUMMARY.

## I. INTRODUCTION

In this tort action, wherein the plaintiff, Dr. Guy Halfteck, seeks to recover for property damage in excess of what he was paid by his insurer following a water leak that damaged his apartment, the plaintiff moves pursuant to CPLR 3212 for partial summary judgment on his negligence claims against defendants 303 West 80th Street Condominium, Board of Managers of 303 West 80th Street Condominium, Andrea Bunis Management, Inc. (collectively, the

"Building Defendants"), Stephen Nelson ("Nelson"), Muna Abu-Shar ("Abu-Shar"), and BSH Home Appliances Corporation ("BSH") (MOT SEQ 006).[1] Each of these defendants oppose the plaintiff's motion, and BSH cross-moves for summary judgment dismissing the plaintiff's claims against it, which cross-motion is in turn opposed by the plaintiff. Separate motions for summary judgment pursuant to CPLR 3212 seeking the dismissal of the plaintiff's complaint as asserted against each of the respective movants are advanced by the Building Defendants, together with defendant Hector Serrano ("Serrano") (MOT SEQ 004); defendant Calderon Construction, Inc. ("Calderon") (MOT SEQ 005); defendant Systems 2000 Plumbing Service, Inc. ("Systems 2000") (MOT SEQ 007); Nelson (MOT SEQ 008); and Abu-Shar (MOT SEQ 009).

These motions were all initially disposed of by an order dated December 7, 2020, upon the erroneous basis that the action had settled in its entirety. By an order dated December 14, 2021, the court vacated its December 7, 2020, order, restored this action to the court's active calendar, and directed that the motions filed at sequences 004, 005, 006, 007, 008 and 009 be marked submitted for decision.

For the reasons that follow, the motions filed by the Building Defendants and Serrano, Calderon, Systems 2000, Nelson, and Abu-Shar at sequences 004, 005, 007, 008 and 009, respectively, are granted, and the motion filed by the plaintiff and cross-motion filed by BSH at sequence 006 are both denied.

[1] By an order dated August 20, 2015, Halfteck's suit, which was filed under Index No. 152958/2015, was consolidated, under Index No. 159606/2013, with the subrogation action commenced by his property insurer, plaintiff Great Northern Insurance Company. The subrogation action settled in November 2020, but Halfteck's separate action for his alleged uninsured loss remained active.

## II. BACKGROUND

The following facts are drawn from the evidence submitted by the parties on the instant motions and, unless otherwise indicated, are undisputed.

### A. The Water Leak

This is an action for damages to real and personal property at Unit 1A, owned by the plaintiff, at the 303 West 80th Street Condominium in Manhattan, resulting from a water leak occurring on or about March 28, 2012. The leak originated from the rupture of the water supply line for the washing machine in Unit 3A, which was owned by a family trust created by Nelson and occupied by tenant Abu-Shar. Nelson purchased Unit 3A in 2006 and began renting the apartment to Abu-Shar in March 2009. He transferred ownership of the apartment to the family trust in March 2011.

Shortly after purchasing Unit 3A in 2006, Nelson bought a washer and dryer and arranged for their installation in the apartment. Nelson did not install the appliances himself; the identity of the original installer(s) is unknown. The dryer was stacked on top of the washer in a hallway alcove within the apartment. Due to their placement in the alcove, the rear of the washer/dryer, where the drainage and water supply hoses were located, could not be accessed or observed without moving the appliances, which would generally require either a special dolly or the efforts of at least two individuals.

Prior to March 28, 2012, Nelson never received any tenant complaints, including from Abu-Shar, regarding leaks or other problems with the washer in Unit 3A, was unaware of any leaks or other problems with the washer, and knew of no previous repairs made to the washer. Abu-Shar, who used the washer/dryer once or twice a week, likewise testified that, prior to March 28, 2012, she was unaware of any leaks from the washer and never saw the water supply

hose at the rear of the appliance. Abu-Shar did not use the washer on March 28, 2012, nor the day before, and was not in her apartment when the washer's water supply hose ruptured.

On March 6, 2012, about three weeks before the leak that damaged the plaintiff's apartment, Abu-Shar had the dryer in her apartment serviced by a BSH technician to repair the dryer's condensation hose, which had not been properly connected to the discharge pipe in the rear wall of the alcove. This required the technician to lift and move the dryer from atop the washer, properly connect the condensation hose, and then return the dryer to its original position above the washer.

The water supply line that ruptured, causing the leak on March 28, 2012, was original to the washer and had been in place since the washer was first installed in Unit 3A in 2006. BSH manufactured both the washer and dryer in Unit 3A but did not install either appliance. Larry Bell, the Director of Product Safety for BSH, opined, based on a review of photographs at his deposition, that the washer's water supply hose failed because the configuration of the plumbing at the rear of the alcove and the position of the washer/dryer caused the hose to be pinched, crushed or compressed between the washer/dryer and the plumbing fixtures, which in turn caused the hose to wear over time due to the vibration and rubbing of the appliances against it.[2]

[2] This is consistent with the opinion offered in the unsworn report of David Schwalje (the "Schwalje Report"), a professional engineer retained by Great Northern to investigate the cause of the leak, which the plaintiff submitted in support of his summary judgment motion absent an accompanying affidavit from Schwalje. Because it is unsworn, the Schwalje Report is inadmissible hearsay, and will not be considered in support of the plaintiff's summary judgment motion. The report may, however, be properly considered in opposition to the defendants' various motions for summary judgment, given the substantial similarity between its conclusions and those testified to by Bell. See Fountain v Ferrara, 118 AD3d 416, 416 (1st Dept. 2014); O'Halloran v City of New York, 78 AD3d 536, 537 (1st Dept. 2010). In particular, the Schwalje Report, like Bell, concludes that the failure of the water supply hose was caused by the configuration of the plumbing at the rear of the washer/dryer alcove, in combination with a failure to leave sufficient clearance between the washer/dryer and the plumbing fixtures, which caused the hose to wear as the appliances rubbed and vibrated against it.

B. The Building Defendants & Serrano

The By-Laws for the 303 West 80th Street Condominium provide that "[a]ll maintenance of and repairs to any Unit," including plumbing fixtures "within the Unit or belonging to the Unit Owner shall be at the Unit Owner's expense[.]" Although the By-Laws reserve to the condominium's Board of Managers and their agents a right of entry to individual units in case of emergency and to correct dangerous conditions that threaten other units, there is no evidence that the Board of Managers or the condominium's management company, Andrea Bunis Management, Inc., had any notice of a dangerous condition affecting the washer in Unit 3A prior to March 28, 2012.

In 2012, Serrano was an independent contractor employed on a part-time basis as the building superintendent at the 303 West 80th Street Condominium. His duties included cleaning the building's lobby, basement, hallways, stairwells and adjacent sidewalks, and taking out the garbage. Serrano testified that he did not perform repair work in the building. He further testified that he had never been in Unit 3A prior to March 28, 2012. This last claim is contested by Abu-Shar, who testified that Serrano came to her apartment in November 2011 to investigate an unrelated leak in the closet adjacent to the alcove containing her washer/dryer, which was emanating from another apartment two floors above her own. However, Abu-Shar expressly stated she has no recollection of Serrano moving the washer/dryer in her unit during his visit.

C. Other Contractors

Calderon is a small company that performs plastering and painting work. It does not do plumbing or electrical work. Calderon was hired by Andrea Bunis Management, Inc. to repair three holes in Unit 3A, located in the bathroom and two closets. Jose Calderon, the company's owner, accompanied by one employee, performed these repairs on March 7, 2012. The

testimony does not make clear whether one of the closets Calderon worked in was the washer/dryer alcove. However, Jose Calderon's unrebutted testimony is that he did not observe a washer/dryer while working in the apartment, and that the two closets he worked in were already empty upon his arrival. There is no evidence that Calderon performed any other work in Unit 3A prior to March 28, 2012.

Systems 2000 is a plumbing company that made an emergency service visit to the 303 West 80th Street Condominium in response to the leak from Unit 3A on March 28, 2012. There is no evidence demonstrating that Systems 2000 performed any work in Unit 3A prior to that emergency service call. Although the evidence includes an email from an employee of Andrea Bunis Management, Inc. indicating that Systems 2000 would be retained to perform work in the hallway and powder room bathroom of Unit 3A two days later, on January 25, 2012, there is no evidence that work was ever actually performed.

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The plaintiff commenced this action on March 26, 2015, alleging that the defendants' negligence caused the water leak that damaged his property, and seeking to recover his uninsured loss. The Note of Issue was filed on August 8, 2019, and the instant motions were filed on October 4, 2019 (MOT SEQ 004, 005, 006) and October 7, 2019 (MOT SEQ 007, 008, 009).

## III. LEGAL STANDARD

It is well settled that the proponent of a motion for summary judgment must make a *prima facie* showing of entitlement to judgment as a matter of law, tendering sufficient evidence to eliminate any triable issues of fact. See Winegrad v New York Univ. Med. Ctr., 64 NY2d 851 (1985). In opposition, the nonmoving party must demonstrate by admissible evidence the existence of a triable issue of fact. See Alvarez v Prospect Hospital, 68 NY2d 320 (1986);

Zuckerman v City of New York, 49 NY2d 557 (1980). However, if the initial burden is not met by the movant, summary judgment must be denied regardless of the sufficiency of the opposing papers. See Winegrad v New York Univ. Med. Ctr., supra; Giaquinto v Town of Hempstead, 106 AD3d 1049 (2nd Dept. 2013); O'Halloran v City of New York, 78 AD3d 536 (1st Dept. 2010).

## IV. DISCUSSION

### A. The Building Defendants and Serrano – MOT SEQ 004

The evidence submitted on the present motions demonstrates that the Building Defendants and Serrano (as an employee of the condominium) were under no duty to repair, maintain, or inspect the washer/dryer in Unit 3A. Specifically, the condominium By-Laws allocate responsibility for the repair and maintenance of all non-common elements within an individual apartment to the unit's owner, providing, in relevant part, that "[a]ll maintenance of and repairs to any Unit," including plumbing fixtures "within the Unit or belonging to the Unit Owner shall be at the Unit Owner's expense[.]"

Further, the evidence establishes, *prima facie*, that the Building Defendants and Serrano did not cause the rupture in the washer's water supply hose. They did not install the washer/dryer and its associated plumbing fixtures, nor is there any evidence they interacted with the washer/dryer prior to March 28, 2012, such that they could be responsible for the improper positioning of the appliances and the resulting compression of the water supply hose. To the contrary, Serrano testified that he was never present in Unit 3A. And, while Abu-Shar claims that Serrano did, in fact, visit her apartment in November 2011, she expressly acknowledged that she has no recollection of him moving the washer/dryer.

The evidence likewise demonstrates that these defendants—indeed, that all the defendants—lacked actual or constructive notice of any dangerous or defective condition with respect to the washer. The hose that ruptured could not be observed without moving the washer/dryer; the washer was never previously in need of repair; Nelson never received any tenant complaints regarding the washer and knew of no prior leaks; and Abu-Shar, who used the washer regularly without issue, was similarly unaware of any prior leaks. This proof demonstrates that not even the owner and tenant of Unit 3A, let alone building management, were aware of any problems with the washer, and that any wear to the washer's water supply hose was not open and apparent, as the hose could not be observed without moving the washer/dryer.

Accordingly, the evidence submitted establishes, *prima facie*, the Building Defendants' and Serrano's entitlement to summary judgment dismissing the claims against them. The plaintiff did not file opposition to the Building Defendants' and Serrano's motion, nor does any of the evidence submitted in support of the plaintiff's own motion indicate a triable issue of fact with respect to these defendants. Indeed, the plaintiff does not even seek summary judgment as against Serrano, and the only argument the plaintiff raises in his own motion with respect to the Building Defendants is meritless. Specifically, the plaintiff argues that the Building Defendants' negligence is established because, subsequent to the subject leak in Unit 3A, the condominium changed its rules to require the installation of collecting pans, sensors and a cut-off switch on washing machines to prevent similar water leaks. However, it is well-established that evidence of subsequent remedial measures is not admissible to prove negligence (see O'Callaghan v Walsh, 211 AD2d 531, 532 [1st Dept. 1995]; Yates v City of New York, 37 AD3d 458, 459 [2nd Dept. 2007]), and the plaintiff produces no additional, admissible evidence concerning such

sensors and water cut-off switches, including evidence of custom and usage or industry standards as it might relate to such devices, or evidence relating to the availability, feasibility, and cost of requiring the installation of such devices. Consequently, the contentions in the affirmation of counsel filed in support of the plaintiff's motion concerning what the Building Defendants should have done to prevent the accident that damaged the plaintiff's apartment are mere conjecture, unsupported by admissible evidence.

Finally, the plaintiff may not rely on the doctrine of *res ipsa loquitur* because the evidence demonstrates that the instrumentality causing the accident (*i.e.*, the washer's water supply hose) was not within the exclusive control of either the Building Defendants or Serrano.

Accordingly, the plaintiff's motion is denied insofar as it seeks summary judgment as against the Building Defendants; the Building Defendants' and Serrano's motion is granted.

B. Calderon & Systems 2000 – MOT SEQ 005 and 007

The evidence submitted further establishes both Calderon's and Systems 2000's *prima facie* entitlement to summary judgment. Both contractors, to the extent they did any work at all in Unit 3A, were retained by the condominium's management company. Accordingly, tort liability in favor of the plaintiff—a third party—would require, as relevant here, that these contractors, in failing to exercise reasonable care in the performance of their duties, "launche[d] a force or instrument of harm" by creating or exacerbating the alleged dangerous condition affecting the washer's water supply hose. See Espinal v Melville Snow Contractors, Inc., 98 NY2d 136, 140 (2002). However, the evidence demonstrates that Calderon's work in Unit 3A did not involve the washer/dryer at all, which Jose Calderon testified he did not even observe while working in the apartment. And the only documented instance of work actually performed in Unit 3A by Systems 2000 was in response to the subject leak itself. For these same reasons,

the plaintiff also may not rely on the doctrine of *res ipsa loquitur* with respect to these defendants, as the washer's water supply hose clearly was not within the exclusive control of either Calderon or Systems 2000. The plaintiff does not oppose either of these motions and presents no evidence concerning these defendants in its own motion for summary judgment.

Accordingly, Calderon's motion and Systems 2000's motion are both granted.

C. Nelson & Abu-Shar – MOT SEQ 008 and 009

Both Nelson and Abu-Shar are likewise entitled to summary judgment in their favor. Neither Nelson or Abu-Shar installed the washer/dryer and its associated plumbing fixtures, nor is there any evidence they moved or otherwise interacted with the washer/dryer in a manner that could have resulted in the improper positioning of the appliances and the resulting compression of the washer's water supply hose. Further, and as already discussed, the evidence demonstrates that neither Nelson or Abu-Shar had actual or constructive notice of any dangerous or defective condition with respect to the washer. Nor is there a basis to invoke *res ipsa loquitur* with respect to these defendants, as the evidence demonstrates that neither Nelson nor Abu-Shar was in exclusive control of the washer's water supply hose, as the washer/dryer was accessed by, at the very least, BSH's technician shortly before the leak occurred.

The plaintiff does not oppose either Nelson's or Abu-Shar's motions, and while his own motion does seek summary judgment against both these defendants, it fails to raise a triable issue of fact concerning their alleged liability. The plaintiff's sole argument, in his own motion for summary judgment, with respect to Nelson and Abu-Shar is that their liability is established based on a provision in the condominium's House Rules, which provides that "[a]ny damage to the Building or equipment caused by Unit Owners, their tenants, guests, visitors, clients, patients, employees, or pets shall be repaired at the expense of the said Unit Owner." According to the

plaintiff, this provision applies to both Nelson and Abu-Shar and renders them each contractually liable to him for the damage to his apartment. This contention is meritless.

The plaintiff provides no authentication for the House Rules, which are thus not submitted in admissible form and cannot provide the basis for a grant of summary judgment. See Clarke v Am. Truck & Trailer, Inc., 171 AD3d 405 (1st Dept. 2019). Moreover, on its face and, especially, when read in context of the House Rules as a whole, the provision in question plainly does not concern damage done to another unit owner's individual apartment, but instead relates to damage done to the condominium building itself and its equipment. As such, even if they had been submitted in admissible form, the House Rules provide no basis to find either Nelson or Abu-Shar liable to the plaintiff in either contract or tort.

Accordingly, the plaintiff's motion is denied insofar as it seeks summary judgment as against Nelson and Abu-Shar; and both Nelson's and Abu-Shar's motions are granted.

D. BSH – MOT SEQ 006

BSH contends, correctly, that the plaintiff's evidence is insufficient to establish a *prima facie* case of negligence against it. However, BSH likewise fails to establish its own entitlement to summary judgment.

Like Calderon and Systems 2000, BSH's liability to the plaintiff would require evidence demonstrating that it "launche[d] a force or instrument of harm" by creating or exacerbating the alleged dangerous condition affecting the washer's water supply hose. See Espinal v Melville Snow Contractors, Inc., supra. BSH contends that the plaintiff cannot make such a demonstration because its principal causation evidence—the Schwalje Report—is inadmissible hearsay. However, as already noted (supra at Note 3), the Schwalje Report may be considered in

opposition to BSH's cross-motion and, in any event, its conclusions are substantially the same as the opinion offered by Larry Bell, BSH's own Director of Product Safety.

According to Bell and Schwalje, the rupture in the washer's water supply hose resulted from the configuration of the plumbing at the rear of the washer/dryer alcove, in combination with a failure to leave sufficient clearance between the washer/dryer and the plumbing fixtures, which caused the hose to wear as the appliances rubbed and vibrated against it. Bell initially testified that the hose was compressed against the washer, but subsequently allowed that, as asserted in the Schwalje Report, it may have been compressed against the dryer. The configuration of the plumbing was either already in place prior to the 2006 installation of the washer/dryer or was set up by the appliances' unknown installer. The question, then, is who bears responsibility for the improper positioning of the washer/dryer.

The evidence demonstrates that a BSH technician performed repair work to the dryer in Unit 3A just three weeks prior to the leak that damaged the plaintiff's apartment, and that this work involved moving the dryer off the washer, making the necessary repairs, and then placing the dryer back atop the washer. This evidence is insufficient to establish, *prima facie*, that BSH's technician caused the improper positioning of the washer/dryer. First, the evidence does not rule out the possibility, suggested by Bell in conclusory fashion, that the improper positioning of the appliances, the washer in particular, was another artifact of their original installation. Second, it is unclear from the evidence whether the compression of the washer's water supply hose resulted from the improper positioning of the washer or the dryer. It is thus entirely possible that the fault was in the position of the washer only, and that BSH's technician performed his work on the dryer without disturbing the washer's position.

However, the evidence also does not preclude an inference that the technician may have caused the washer to shift position, even if only inadvertently, while working on the dryer stacked above it. This is especially so given that BHS is the only contractor shown to have performed any work on the washer/dryer after their installation but prior to March 28, 2012; the nature of that work involved physically shifting the position of the dryer; and the work was done just three weeks prior to the subject leak. Further, as correctly posited by the plaintiff, if the wear to the hose was caused by the improper positioning of the dryer, rather than the washer, then the evidence is plainly insufficient to dismiss the claims against BSH.

Insofar as the plaintiff's claim against BHS is based, in the alternative, on the doctrine of *res ipsa loquitur*, the claim fails because the evidence demonstrates that BHS did not have exclusive control of the washer's water supply hose.

For these reasons, the plaintiff's motion is denied insofar as it seeks summary judgment as against BHS; and BHS's cross-motion for summary judgment dismissing the plaintiff's complaint as asserted against it is likewise denied.

## V. CONCLUSION

Accordingly, upon the foregoing papers, it is

ORDERED that the plaintiff's motion (MOT SEQ 006) is denied; and it is further

ORDERED that the cross-motion of defendant BSH Home Appliances Corporation (MOT SEQ 006) is denied; and it is further

ORDERED that the motion of defendants 303 West 80th Street Condominium, Board of Managers of 303 West 80th Street Condominium, Andrea Bunis Management, Inc., and Hector

Serrano (MOT SEQ 004) is granted, and the complaint is dismissed as against these defendants; and it is further

ORDERED that the motion of defendant Calderon Construction, Inc. (MOT SEQ 005) is granted, and the complaint is dismissed as against this defendant; and it is further

ORDERED that the motion of defendant Systems 2000 Plumbing Service, Inc. (MOT SEQ 007) is granted, and the complaint is dismissed as against this defendant; and it is further

ORDERED that defendant Stephen Nelson's motion (MOT SEQ 008) is granted, and the complaint is dismissed as against this defendant; and it is further

ORDERED that defendant Muna Abu-Shar's motion (MOT SEQ 009) is granted, and the complaint is dismissed as against this defendant; and it is further

ORDERED that any requested relief sought by any of the movants and not expressly addressed herein has nonetheless been considered and is denied, and it is further

ORDERED that the Clerk shall mark the file accordingly, and it is further

ORDERED that the remaining parties shall appear for an in-person conference in the Early Settlement Part, 80 Centre St., NY, NY, Room 106, on July 12, 2023, at 10:30 a.m., as previously scheduled.

This constitutes the Decision and Order of the court.

NANCY M. BANNON, J.S.C.
HON. NANCY M. BANNON

6/26/2023
DATE

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|---|---|---|---|---|---|---|---|
| CHECK ONE: | | CASE DISPOSED | | | X | NON-FINAL DISPOSITION | |
| | | GRANTED | | DENIED | X | GRANTED IN PART | OTHER |
| APPLICATION: | | SETTLE ORDER | | | | SUBMIT ORDER | |
| CHECK IF APPROPRIATE: | | INCLUDES TRANSFER/REASSIGN | | | | FIDUCIARY APPOINTMENT | REFERENCE |