

Braswell v Mall 1-Bay Plaza, LLC

2024 NY Slip Op 30552(U)

February 21, 2024

Supreme Court, New York County

Docket Number: Index No. 160650/2013

Judge: Debra A. James

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This opinion is uncorrected and not selected for official publication.

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

PRESENT: HON. DEBRA A. JAMES

PART 59

Justice

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DEBORAH MARIE BRASWELL, AS ADMINISTRATRIX of
the Estate of BILLY BRASWELL, Jr., Deceased,

Plaintiff,

INDEX NO. 160650/2013

MOTION DATE 11/01/2023

MOTION SEQ. NO. 012

- v -

MALL 1-BAY PLAZA, LLC, PRESTIGE PROPERTIES &
DEVELOPMENT CO. INC., and AURORA CONTRACTORS,
INC.,

Defendants.

**DECISION + ORDER ON
MOTION**

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PRESTIGE PROPERTIES & DEVELOPMENT CO. INC., and
AURORA CONTRACTORS, INC.

Third-Party Plaintiffs,

Third-Party
Index No. 595318/2014

-against-

JC STEEL CORP.

Third-Party Defendant.

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MALL 1-BAY PLAZA, LLC, PRESTIGE PROPERTIES &
DEVELOPMENT CO. INC., and AURORA CONTRACTORS,
INC.,

Second Third-Party
Plaintiffs,

Second Third-Party
Index No. 595566/2016

-against-

CIVES CORPORATION D/B/A CIVES STEEL COMPANY
NORTHERN DIVISION,

Second Third-Party
Defendant.

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AURORA CONTRACTORS, INC.,

Third Third-Party
Index No. 595201/2020

Third Third-Party
Plaintiff,

-against-

CONSTRUCTION REALTY SAFETY GROUP, INC.,

Third Third-Party
Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 012) 415, 416, 417, 418, 419, 420, 421, 422, 423

were read on this motion to/for APPROVE/SETTLE ACCOUNTING.

ORDER

Upon the foregoing documents, it is

ORDERED that the motion of the plaintiff DEBORAH MARIE BRASWELL, as Administratrix of the Estate of Billy Braswell, Jr., Deceased, for an order authorizing such plaintiff to settle this action is GRANTED, without opposition; and it is further

ORDERED that the plaintiff DEBROAH MARIE BRASWELL, as Administratrix of the Estate of Billy Braswell, Jr., Deceased, is authorized to settle the personal injury action and to execute all closing papers and any other documents or instruments necessary to effectuate the settlement in the amount of \$2,005,000.00; and it is further

ORDERED that defendants MALL 1-BAY PLAZA, LLC, PRESTIGE PROPERTIES & DEVELOPMENT CO. INC., AURORA CONTRACTORS, INC., JC STEEL CORP., CIVES CORPORATION d/b/a CIVES STEEL COMPANY NORTHERN

DIVISION and CONSTRUCTION REALTY SAFETY GROUP, INC. shall pay THIRTY-THREE AND ONE-THIRD PERCENT (33-1/3%) of the total settlement, plus legal disbursements, directly to SACKS AND SACKS, LLP, attorneys for the plaintiff, which percentage is set forth in the statement of retainer filed by SACKS AND SACKS, LLP, with the Office of Court Administration of the State of New York, in accordance with 22 NYCRR 603.25(a), as such law firm's entire compensation for legal services rendered to date in connection with the prosecution of the personal injury action; and it is further

ORDERED that the defendants above shall pay directly to SACKS AND SACKS, LLP, attorneys for the plaintiff, the sum required for the purpose of remitting to NEW HAMPSHIRE INSURANCE COMPANY payment in full satisfaction of the outstanding Worker's Compensation lien of such insurance carrier in accordance with such carrier's consent letter dated March 27, 2023; and it is further

ORDERED that the defendants shall pay directly to SACKS AND SACKS, LLP, attorneys for the plaintiff, the sum required for the purpose of remitting to ANCHOR FUNDINGS, payment in full satisfaction of the outstanding lien of such funding company in accordance with their letter dated August 24, 2023; and it is further

ORDERED that pursuant to CPLR §5003-a, the defendants shall pay the balance of the settlement proceeds, which is the portion of the settlement proceeds due to the estate, to the order of DEBORAH MARIE BRASWELL and SACKS AND SACKS, LLP, as attorneys for the plaintiff, directly to SACKS AND SACKS, LLP, attorneys for the plaintiff; and it is further

ORDERED that SACKS AND SACKS, LLP, shall file with the Office of Court Administration and serve upon plaintiff a Closing Statement in accordance with 22 NYCRR § 603.25(b).

DECISION

See EPTL § 11-1.1(b) (13):

(b) in the absence of contrary or limiting provisions in the court order or decree appointing a fiduciary, or in a subsequent order or decree. . . , every fiduciary is authorized

* * *

(13) To contest, compromise or otherwise settle any claim in favor of the estate, trust or fiduciary or in favor of third persons and against the estate, trust or fiduciary.

Debra A. James

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<u>2/21/2024</u> DATE					<hr/> DEBRA A. JAMES, J.S.C.		
CHECK ONE:	<input checked="" type="checkbox"/>	CASE DISPOSED		<input type="checkbox"/>	NON-FINAL DISPOSITION		
	<input checked="" type="checkbox"/>	GRANTED	<input type="checkbox"/>	DENIED	<input type="checkbox"/>	OTHER	
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER		<input type="checkbox"/>	SUBMIT ORDER		
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN		<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input type="checkbox"/>	REFERENCE