

Mondragon v Reich

2024 NY Slip Op 34629(U)

December 18, 2024

Supreme Court, Kings County

Docket Number: Index No. 511222/2018

Judge: Robin K. Sheares

Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op 30001(U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.

This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

-----X
Florencio Guzman Mondragon,

Plaintiff(s),

- against -

Frank Reich, Denise Reich and SNG Brick and Stone, Inc.

Index No. 511222/2018

Defendant(s).
-----X

DECISION/ORDER

SNG Brick and Stone, Inc.,

Third-Party Plaintiff,

*Motion Sequence
Nos. 12, 13, 15 and 16*

- against -

New Age Building, Inc.,

Third-Party Defendant.
-----X

Frank Reich and Denise Reich,

Second Third-Party Plaintiffs,

- against -

New Age Building, Inc.,

Second Third-Party Defendant.
-----X

SNG Brick and Stone, Inc.

Third Third-Party Plaintiff,

- against -

Triton Construction Company,

Third Third-Party Defendant.
-----X

Recitation, as required by CPLR §2219(a), of the papers considered in the review of this Motion:

<u>Papers</u>	<u>NYSCEF Document No:</u>			
	<u>Sequence # 12</u>	<u>Sequence # 13</u>	<u>Sequence # 15</u>	<u>Sequence # 16</u>
Order to Show Cause/Notice of Motion and Affidavits/Affirmations Annexed/Exhibits	239 – 268	269 – 286	320 – 327	329 – 337
Opposition/Exhibits	338 – 349	350	375; 289 - 294	360 – 366
Reply/Exhibits	372 - 374	367 – 370	376	371

Based on the foregoing papers, and after oral arguments, the Court decides as follows:

Motion Sequence No. 12:

Defendants Frank Reich and Denise Reich moved for an order granting the following relief pursuant to CPLR 3212: (1) summary judgment and dismissal of the complaint; (2) summary judgment and dismissal of all cross-claims by Defendant SNG Brick and Stone, Inc.; and (3) summary judgment on the Reichs' cross-claim for contribution and common law indemnification against Defendant SNG Brick and Stone, Inc. with a conditional order requiring SNG Brick and Stone to fully indemnify Frank Reich and Denise Reich against any judgment against Frank and Denise Reich based on determined violations of Labor Law sections 240(1) and/or 241(6).

After consideration of all papers in support of Motion Sequence No. 12, all papers in opposition to that motion, and all reply papers, and after oral argument of the motion on December 18, 2024, the motion is decided as follows: That branch of the motion seeking summary judgment and dismissal of the complaint and all crossclaims by SNG Brick and Stone, Inc. against Defendant Denise Reich is granted. That branch of the motion seeking summary judgment and dismissal of the complaint against Defendant Frank Reich is denied. That branch of the motion seeking summary judgment and dismissal of all crossclaims by SNG Brick and Stone, Inc. is granted; and that branch of the motion seeking summary judgment on Defendants Frank Reich and Denise Reichs' crossclaims against SNG Brick and Stone, Inc. for contribution and common law indemnification is granted, with a conditional indemnification order requiring Defendant SNG Brick and Stone, Inc. to indemnify Defendants Frank Reich and Denise Reich against any judgment for money damages obtained by the plaintiff for determined violations of Labor Law

sections 240(1) and/or 241(6), including all defense costs incurred by Defendants Frank Reich and Denise Reich. Accordingly, it is Ordered that:

The complaint is dismissed with prejudice ONLY as to Defendant Denise Reich;

SNG Brick and Stone, Inc.'s crossclaims are all dismissed with prejudice as to both Defendant Frank Reich and Denise Reich;

Defendant SNG Brick and Stone, Inc. is conditionally required to fully indemnify Defendants Frank Reich and Denise Reich against any judgment obtained by plaintiff for violations of Labor Law sections 240(1) and/or 241(6), including defense costs.

Motion Sequence No. 13:

Plaintiff moved for an order granting partial summary judgment against only Defendant SNG Brick and Stone, Inc. on plaintiff's Labor Law section 240(1) and 241(6) claims. After consideration of all papers in support of Motion Sequence No. 13, all papers in opposition to the motion, and all reply papers, and after oral argument of the motion on December 18, 2024, the motion is decided as follows: The motion is granted. Accordingly, it is Ordered that:

Summary judgment is granted in favor of the plaintiff against SNG Brick and Stone, Inc. with respect to plaintiff's Labor Law sections 240(1) and 241(6) claims.

Motion Sequence No. 15:

Third Third-Party Defendant Triton Construction Company moves for reargument of the Court's November 17, 2023 decision and order that denied Triton Construction Company's motion for summary judgment and dismissal of all claims by Third Third-Party Plaintiff SNG Brick and

Stone, Inc., with the exception of that part of the order that granted summary judgment and dismissal of SNG Brick and Stone Inc.'s breach of contract claim.

After consideration of all papers in support of Motion Sequence No. 15, all papers in opposition to the motion, and all reply papers, and after oral argument on December 18, 2024, the motion is decided as follows: Reargument is granted and, upon such reargument, the Court denies the motion in its entirety. Accordingly, it is Ordered that:

The motion for reargument is granted and, upon such reargument, the relief sought is denied in its entirety.

Motion Sequence No. 16:

Defendant SNG Brick and Stone, Inc. moved for an order granting the following relief pursuant to CPLR 3212: (1) summary judgment and dismissal of the complaint; and (2) dismissal of all crossclaims against SNG Brick and Stone, Inc. After consideration of all papers in support of Motion Sequence No. 16, all papers in opposition to the motion, and all reply papers, and after oral argument on December 18, 2024, the motion is decided as follows: The motion is denied. Accordingly, it is Ordered that

SNG Brick and Stone Inc.'s motion is denied in its entirety.

This constitutes the Decision/Order of the Court.

Dated: December 18, 2024

ENTER



The Hon. Robyn K. Sheares, J.S.C.