

Carroll v BOP Greenpoint D LLC

2025 NY Slip Op 30627(U)

February 24, 2025

Supreme Court, New York County

Docket Number: Index No. 158842/2021

Judge: Mary V. Rosado

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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. MARY V. ROSADO PART 33M

Justice

-----X

TIMOTHY CARROLL, CYNTHIA CARROLL,
Plaintiff,

- v -

BOP GREENPOINT D LLC, GREENPOINT LANDING
ASSOCIATES, LLC, NEW LINE STRUCTURES &
DEVELOPMENT LLC,

Defendant.

-----X

BOP GREENPOINT D LLC, GREENPOINT LANDING
ASSOCIATES, LLC, NEW LINE STRUCTURES &
DEVELOPMENT LLC

Plaintiff,

-against-

URBAN PRECAST, LLC, U.S CRANE & RIGGING LLC, NYC
CRANE HOIST OPERATION, LLC

Defendant.

-----X

INDEX NO. 158842/2021
MOTION DATE 11/04/2024
MOTION SEQ. NO. 001

**DECISION + ORDER ON
MOTION**

Third-Party
Index No. 595691/2023

The following e-filed documents, listed by NYSCEF document number (Motion 001) 51, 52, 53, 54, 55, 56

were read on this motion to/for AMEND CAPTION/PLEADINGS.

Upon the foregoing documents, a final submission date of January 14, 2025, there being no opposition, and good cause having been shown, Plaintiff Timothy Carroll’s (“Plaintiff”) motion for an Order permitting the substitution of Plaintiff, as Administrator of the Estate of Cynthia Carroll, as co-plaintiff in the place and stead of Cynthia Carroll, lifting the stay of this case, and restoring same to active status, is granted.

Substitution is governed by CPLR 1015 which provides that “[i]f a party dies and the claim for or against him is not thereby extinguished the court shall order substitution of the proper parties.” Here, Plaintiff’s counsel provides sufficient documentary evidence to support the Court’s finding that Plaintiff is the duly appointed fiduciary of Cynthia Carroll estate under the laws of New York and thus is the proper party for substitution (NYSCEF Docs. 54, 55; *see TAG 380, LLC v Estate of Ronson*, 69 AD3d 471, 474 [1st Dept 2010]). Moreover, the parties have filed a stipulation consenting to the substitution dated November 4, 2024 (NYSCEF Doc. 56). Thus, Plaintiff’s motion is granted, the automatic stay lifted, and the matter restored to active status.

Accordingly, it is hereby,

ORDERED that Plaintiff’s motion pursuant to CPLR 1015(a) is granted, and Plaintiff Timothy Carroll, as Administrator of the Estate of Cynthia Carroll, is to be substituted in place and stead of Plaintiff Cynthia Carroll, deceased; and it is further

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ORDERED that the caption of the action is amended to read as follows:

SUPREME COURT OF THE STATE OF NEW YORK

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TIMOTHY CARROLL, Individually, and TIMOTHY
CARROLL, as Administrator of the Estate of Cindy (Cynthia)
Carroll, Deceased,

Index No.: 158842/2021

Plaintiff,

-against-

BOP GREENPOINT D LLC,
GREENPOINT LANDING ASSOCIATES LLC, and
NEW LINE STRUCTURES AND DEVELOPMENT LLC,

Defendants

-----X
BOP GREENPOINT D LLC, GREENPOINT
LANDING ASSOCIATES, LLC, and NEW LINE
STRUCTURES & DEVELOPMENT LLC,

Third-Party Plaintiffs,

-against-

URBAN PRECAST, LLC, U.S. CRANE & RIGGING
LLC and NYC CRANE HOIST OPERATION, LLC,

Third-Party Defendants

; and it is further

ORDERED that within ten days of entry, Plaintiff shall serve a copy of this Order with notice of entry upon the Trial Support Office, and shall file the notice required by CPLR § 8019(c) and a completed Form EF-22 with the County Clerk in accordance with the procedures set forth in the *Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases* (accessible at the “E-Filing” page on the court’s website at the address www.nycourts.gov/supctmanh), and the Trial Support Office shall thereupon amend the court records accordingly; and it is further

ORDERED that the automatic stay imposed by decedent Cynthia Carroll's death is hereby lifted; and it is further

ORDERED that the parties are directed to meet and confer and, on or before May 26, 2025, submit a proposed compliance conference order to the Court via e-mail to sfc-part33-clerk@nycourts.gov. In the event the parties cannot agree to a proposed compliance conference order, they shall appear for an in-person compliance conference on May 28, 2025 at 9:30 a.m. in Room 442, 60 Centre Street, New York, New York; and it is further

ORDERED that within 10 days of entry, counsel for Plaintiff shall serve a copy of this Decision and Order, with notice of entry, on all parties via NYSCEF.

This constitutes the Decision and Order of the Court.

2/24/2025
DATE

Mary V Rosado JSC
HON. MARY V. ROSADO, J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE