

Blackmon v 925 Madison Ave., Inc.

2025 NY Slip Op 33908(U)

October 10, 2025

Supreme Court, New York County

Docket Number: Index No. 151387/2019

Judge: David B. Cohen

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

PRESENT: HON. DAVID B. COHEN PART 58

Justice

-----X

JAMIL BLACKMON,

Plaintiff,

- v -

925 MADISON AVENUE, INC.,

Defendant.

-----X

925 MADISON AVENUE, INC.

Plaintiff,

-against-

ACE-ATLAS CORP.

Defendant.

-----X

INDEX NO. 151387/2019

MOTION DATE 02/27/2024,
05/23/2024

MOTION SEQ. NO. 002 003

**DECISION + ORDER ON
MOTION**

Third-Party
Index No. 596008/2020

The following e-filed documents, listed by NYSCEF document number (Motion 002) 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 104, 105, 121, 123

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

The following e-filed documents, listed by NYSCEF document number (Motion 003) 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 107, 108, 109, 110, 111, 112, 113, 114, 117, 118, 119, 120, 122, 124

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

Plaintiff moves (Seq. 002), pursuant to CPLR 3212 for summary judgment on liability, on his to Labor Law §§ 240(1) and 241(6) claims, predicated on 12 NYCRR 23-1.5 (c)(3), and for dismissal of comparative fault defenses. Defendant 925 Madison Avenue, Inc. (925 Madison) opposes.

Defendant/third-party plaintiff 925 Madison Avenue, Inc. (925 Madison) moves (Seq. 003), pursuant to CPLR 3212, for summary judgment dismissing plaintiff's Labor Law §§

240(1), 241(6) and 200/common-law negligence claims, and for summary judgment on its third-party claims against Ace-Atlas Corp. (Ace) for contractual indemnification, common-law indemnification, contribution, and failure to procure/afford additional-insured coverage. Plaintiff and Ace both oppose the motion.

I. PERTINENT FACTS

On November 16, 2018, plaintiff Jamil Blackmon, then employed by Ace, was injured while performing boiler removal work at 956 Madison Avenue, New York, New York (the premises), a building owned by 925 Madison (NYSCEF 79). Ace had been retained to replace a defective boiler at the premises (*id.*). The work required disassembling the boiler into several sections, each weighing hundreds of pounds, which were then hoisted from the basement through sidewalk vault doors by means of a strap or rope approximately 12–14 feet in length (NYSCEF 79). Plaintiff worked on the sidewalk pulling the sections upward, while co-workers remained below to guide the load (*id.*). During removal of one section, the strap snapped, causing the boiler piece to fall back into the basement and pulling plaintiff backward into a nearby van, fracturing his ankle (*id.*).

The device used to hoist the boiler was described as a rubber gasket, rope or hoisting strap, and was the only device provided to plaintiff's crew to perform the boiler removal task (NYSCEF 82). Plaintiff did not select it and he used the equipment supplied by Ace while following instructions in performing the work (*id.*). All tools and equipment used in the work were supplied by Ace, and 925 Madison did not supervise, direct, or control plaintiff's work (NYSCEF 86).

An indemnification and insurance procurement agreement (insurance agreement) dated October 29, 2018 required Ace to defend and indemnify the "Owner" for claims "arising out of

any act, omission, or error of the Contractor, its subcontractors, or any of its or their agents, servants, representatives, affiliates or employees,” and to procure liability insurance naming the Owner as an additional insured (NYSCEF 84). Sierra Real Estate LLC, acting as property manager for 925 Madison, retained Ace to perform the boiler replacement work (*id.*).

Rider A to the insurance agreement and Ace’s certificate of insurance identified “956 Madison Ave. Inc.” as the additional insured, although the building address was listed as 925 Madison Avenue and Sierra was identified as property manager (NYSCEF 84). Ace invoiced Sierra and was paid for the work (NYSCEF 82). Following plaintiff’s accident, 925 Madison tendered its defense and indemnity to Ace and to Ace’s insurer, Allied World National Assurance Company (Allied World) (NYSCEF 84). By letter dated February 24, 2021, Allied World agreed to provide 925 Madison with a defense subject to a reservation of rights (NYSCEF 85).

II. DISCUSSION

On a motion for summary judgment, the movant bears the initial burden of establishing, through admissible evidence, its entitlement to judgment as a matter of law by eliminating all material issues of fact (*see Winegrad v New York Univ. Med. Ctr.*, 64 NY2d 851, 853 [1985]). If the movant meets this burden, the burden shifts to the opposing party to demonstrate the existence of triable issues of fact requiring a trial (*see Alvarez v Prospect Hosp.*, 68 NY2d 320, 324 [1986]). The evidence is viewed in the light most favorable to the nonmoving party (*Vega v Restani Constr. Corp.*, 18 NY3d 499, 503 [2012]).

A. Motion Seq. 002 – Plaintiff’s Motion for Summary Judgment

1. Labor Law § 240(1)

In support of his motion, plaintiff argues that he was injured when the strap being used to hoist heavy sections of a boiler from the basement of the premises snapped, causing the boiler to fall back into the basement and pulling him backward into a nearby van. He maintains that the snapping of the strap demonstrates that the device provided to him was inadequate and failed to protect him against the gravity-related risk inherent in hoisting the load. Plaintiff asserts that his injuries were caused solely by the uncontrolled descent of the boiler section and not by any culpable conduct on his part.

In opposition, 925 Madison contends that the accident did not involve the type of elevation-related risk contemplated by Labor Law § 240(1) because plaintiff was working at ground level, the height differential involved was minimal, and plaintiff was not struck by the falling boiler. 925 Madison further contends that the rubber gasket/strap is not a safety device within the meaning of § 240(1), and that the accident resulted from the crew’s chosen method and equipment rather than a failed protective device.

In reply, plaintiff reiterates that the strap was being used to hoist a boiler section and that its snapping directly caused the accident. He emphasizes that the elevation differential was significant, given the 12–14-foot length of the strap and the distance from the basement to the sidewalk. Plaintiff also stresses that his injuries resulted directly from the uncontrolled descent of the boiler section.

Labor Law § 240(1) imposes a nondelegable duty on owners and contractors to provide safety devices that give proper protection to workers exposed to elevation-related risks, and it imposes absolute liability where a violation proximately causes injury (*Saint v Syracuse Supply*

Co., 25 NY3d 117, 124 [2015]; *Ross v Curtis–Palmer Hydro–Elec. Co.*, 81 NY2d 494, 501 [1993]). The statute applies where injuries are the direct consequence of a failure to provide adequate protection against a risk arising from a physically significant elevation differential (*Runner v New York Stock Exch., Inc.*, 13 NY3d 599, 603 [2009]).

Liability is triggered when an object being hoisted or secured falls due to the inadequacy of a safety device (*Narducci v Manhasset Bay Assoc.*, 96 NY2d 259, 268 [2001]; *Medouze v Plaza Constr. LLC*, 199 AD3d 465, 465–66 [1st Dept 2021]; *Gallegos v Bridge Land Vestry, LLC*, 188 AD3d 566, 567 [1st Dept 2020]). The statute may apply even if the worker is pulled or struck indirectly by the load, so long as the injury flows from gravity acting on the object (*Dirschneider v Rolex Realty Co. LLC*, 157 AD3d 538, 539 [1st Dept 2018] [failure to provide devices to control descent of 600-pound I-beam on staircase triggered liability]; *Lopez v Boston Props. Inc.*, 41 AD3d 259, 260 [1st Dept 2007] [worker injured when overloaded bucket without brake mechanism caused fall; injury compensable though safety harness arrested fall]).

Here, plaintiff sustained his injuries while assisting in the hoisting of heavy boiler sections with a strap that snapped, causing the section to drop back into the basement and forcing him backward. This scenario aligns with precedent where the failure of a safety device during hoisting established liability under Labor Law § 240(1). In *Runner v New York Stock Exch., Inc.* (13 NY3d at 604), the Court of Appeals held that liability attaches where a reel descended in an uncontrolled manner. Likewise, in *Medouze v Plaza Constr. LLC* (199 AD3d 465, 465–466 [1st Dept 2021]), summary judgment was granted where a bundle fell after wooden dunnage failed and pulled the plaintiff down, and in *Dirschneider v Rolex Realty Co. LLC* (157 AD3d 538, 539–540 [1st Dept 2018]), liability was imposed where no adequate device was provided to control the descent of a 600-pound I-beam down a staircase.

The fact that plaintiff was not struck by the boiler section is not dispositive; liability arises where injuries flow directly from the force of gravity acting on an object (*Lopez*, 41 AD3d at 260). Defendant's reliance on cases such as *Ross v Curtis–Palmer Hydro–Elec. Co.* (81 NY2d 494 [1993]), *Narducci v Manhasset Bay Assoc.* (96 NY2d 259 [2001]), *Toefer v Long Is. R.R.* (4 NY3d 399 [2005]), and *Reyes v Magnetic Constr., Inc.* (83 AD3d 512 [1st Dept 2011]) is misplaced, as those cases involved different mechanisms—such as trip-and-fall incidents, contact with stationary glass, or lateral movement of objects—not the failure of a device to protect against the hoisting of a heavy load.

925 Madison further opposes, relying on the sole proximate cause defense, asserting that plaintiff and his coworkers chose to use an improper piece of equipment, a rubber gasket cord, instead of a proper rope or hoisting device, and that the accident occurred not because of any statutory violation but due to their misuse of equipment

In reply, plaintiff argues that 925 Madison's opposition concedes the device used was “improper” and that it failed during the hoisting task, which itself establishes a § 240(1) violation. He maintains that he was simply using the equipment provided by Ace and did not disregard any available safety devices. Under settled case law, a worker is not required to show why the device failed, only that it failed while being used for hoisting

Liability is defeated only where plaintiff's conduct was the sole proximate cause of the accident (*Blake v Neighborhood Hous. Servs. of N.Y. City*, 1 NY3d 280, 286–87 [2003]; *Cahill v Triborough Bridge & Tunnel Auth.*, 4 NY3d 35, 39–40 [2004]). To prevail on a sole proximate cause defense, defendants must establish that (1) adequate safety devices were available; (2) plaintiff knew he was expected to use them; (3) he chose not to do so for no good reason; and (4) his choice caused the accident (*Gallagher v New York Post*, 14 NY3d 83 [2010]).

On this record, none of the elements of the sole proximate cause defense is supported: there is no evidence that adequate safety devices were available, that plaintiff knew he was expected to use them, that he unreasonably chose not to do so, or that such a choice caused the accident. The only device provided to plaintiff's crew was the strap or gasket used to hoist the boiler sections, and it is undisputed that this device snapped during the task. Plaintiff did not select the device, nor did he disregard available, adequate safety equipment. Rather, he followed instructions and used the equipment Ace supplied. 925 Madison's reliance on plaintiff's or his coworkers' conduct as the sole proximate cause is therefore unavailing, as the failure of the device during hoisting establishes a violation of § 240(1) and 925 Madison has not raised a triable issue that plaintiff's actions were the sole cause of the accident.

Accordingly, plaintiff has demonstrated entitlement to summary judgment on his Labor Law § 240(1) claim.

2. Labor Law § 241(6)

a. 12 NYCRR 23-1.5(c)(3)

Plaintiff contends that the strap used to hoist the boiler sections snapped during the work, demonstrating that it was not "sound and operable" as required by the Industrial Code. He argues that courts have applied this provision to defective or malfunctioning equipment, and that the very failure of the strap is sufficient to establish a violation.

925 Madison opposes, arguing that the provision is too general to serve as a predicate for liability under Labor Law § 241(6). 925 Madison further maintains that the strap was not defective, but rather that Ace improperly selected the wrong type of equipment for the task, which does not amount to a statutory violation.

In reply, plaintiff emphasizes that the regulation has been upheld as a sufficiently specific standard of conduct. He asserts that the snapping of the strap constitutes proof that the equipment was unsound and inoperable, regardless of whether it was the correct device for hoisting boiler sections.

Industrial Code 12 NYCRR 23-1.5(c)(3) provides: “All safety devices, safeguards and equipment in use shall be kept sound and operable, and shall be immediately repaired or restored or immediately removed from the job site if damaged.” The First Department has held that this provision is sufficiently specific to support a Labor Law § 241(6) claim, and that equipment failure alone may demonstrate a violation (*see Ormsbee v Time Warner Realty Inc.*, 203 AD3d 630, 631 [1st Dept 2022] [malfunctioning gang box hydraulics]; *Viruet v Purvis Holdings LLC*, 198 AD3d 587, 588 [1st Dept 2021] [defective grinder]).

Here, the record demonstrates that the strap being used to hoist boiler sections snapped in two, causing the boiler piece to fall and plaintiff to be pulled backward and injured. That failure itself establishes that the strap was not “sound and operable” within the meaning of the regulation.

925 Madison’s argument that the regulation is merely a general responsibility provision is unpersuasive, as the First Department has expressly rejected that position (*see Ormsbee*, 203 AD3d at 631 [holding 23-1.5(c)(3) sufficiently specific to support § 241(6) claim]; *Lopez*, 203 AD3d at 406 [same]). Nor does it matter whether Ace selected the “wrong” type of equipment; once the strap was put into use, the regulation required it to be maintained in sound and operable condition. Its snapping is sufficient to show noncompliance (*see Viruet*, 198 AD3d at 588; *see also Ormsbee*, 203 AD3d at 631). On this record, plaintiff has established a violation of

§ 23-1.5(c)(3) that was a proximate cause of his injury, and 925 Madison raises no triable issue of fact in opposition.

b. 12 NYCRR 23-6.1(b), (d)

Plaintiff argues that the strap used to lift the boiler sections constituted “material hoisting equipment” within the meaning of the Industrial Code. He maintains that under subdivision (b), such equipment must be maintained in good repair, and under subdivision (d), loads must be securely slung and properly balanced before being set in motion. Plaintiff contends that because the strap snapped while in use, the load was not securely hoisted, and the regulation was violated.

925 Madison counters that a strap is not “material hoisting equipment” as contemplated by the regulation, arguing that section 23-6.1 governs mechanical hoists and similar devices, not makeshift ropes or gaskets, and that extending it to a rope used by hand would improperly broaden its scope.

In reply, plaintiff emphasizes that the strap was functionally being used as hoisting equipment, and that its failure to hold the boiler section demonstrates that the requirements of subdivisions (b) and (d) were not satisfied.

Industrial Code 12 NYCRR 23-6.1(b) provides: “Material hoisting equipment shall at all times be maintained in good repair and proper operating condition... all defects affecting safety shall be immediately corrected... or defective equipment removed from the job site.”

Subdivision (d) further requires that “Material hoisting equipment shall not be loaded in excess... all loads shall be properly trimmed to prevent dislodgment... [and] suspended loads shall be securely slung and properly balanced before they are set in motion.”

The First Department has made clear that hoisting under section 23-6 is not confined to powered devices; using a rope to draw or raise a load constitutes hoisting, and § 241(6) liability may be awarded on summary judgment under 23-6.1(b), (d) where the proof shows the hoisting equipment was not in good repair or that the load was not securely slung or balanced. (*see Hayden v 845 UN Ltd. Partnership*, 304 AD2d 499, 499–500 [1st Dept 2003] [plaintiff granted summary judgment under § 241(6) predicated on 12 NYCRR 23-6.1(b), (d) where workers hoisted an elevator cable by pulling on a rope tied to the cable).

Consistent with *Hayden*, plaintiff was engaged in hoisting because the work entailed using a strap or rope to raise heavy boiler sections from the basement through the sidewalk vault doors. The strap's snapping during the lift establishes, as a matter of law, that the "material hoisting equipment" was not maintained in good repair (23-6.1[b]) and was loaded to excess (23-6.1[d]). 925 Madison identifies no evidence creating a triable dispute that the strap was sound or that the load was not too heavy for the strap; its argument that section 23-6 is limited to mechanical hoists is unavailing in light of *Hayden*.

Accordingly, plaintiff is entitled to summary judgment on Labor Law § 241(6) predicated on 12 NYCRR 23-6.1(b) and (d).

Lastly, comparative negligence, if any, does not preclude summary judgment on liability; it goes only to apportionment of fault and diminution of damages under CPLR 1411 (*Rodriguez v City of New York*, 31 NY3d 312, 320–321 [2018]). Accordingly, defendants' comparative-fault defenses remain as to the § 241(6) claim, but are stricken insofar as they pertain to § 240(1), for which comparative negligence is not a defense (*see Blake v Neighborhood Hous. Servs. of N.Y. City*, 1 NY3d 280, 289–290 [2003]).

B. Motion Seq. 003 – 925 Madison’s Motion for Summary Judgment

Because plaintiff has been granted summary judgment on liability under Labor Law §§ 240(1) and 241(6), 925 Madison’s motion to dismiss those claims is denied as academic. The Court therefore considers 925 Madison’s motion only as to plaintiff’s Labor Law § 200 and common-law negligence claims, and its third-party claims against Ace for contractual indemnification, common-law indemnification and contribution, and failure to procure insurance.

1. Labor Law § 200 and Common-Law Negligence

Plaintiff concedes that his Labor Law § 200 and common-law negligence claims are not viable on this record. Accordingly, 925 Madison’s motion for summary judgment dismissing those claims is granted as unopposed.

2. Third-Party Claims Against Ace-Atlas

925 Madison, as defendant/third-party plaintiff, contends that Ace executed an agreement obligating it to defend and indemnify 925 Madison and to procure insurance naming it as an additional insured. It argues that plaintiff was Ace’s employee, that Ace directed and controlled the work and supplied the equipment involved in the accident, and that Ace’s insurer accepted 925 Madison’s tender of defense, albeit subject to a reservation of rights. 925 Madison acknowledges the misnomer in Rider A insuring “956 Madison Ave. Inc.” rather than 925 Madison, however, it contends that Ace’s response to its tender acknowledges a mutual mistake.

Ace opposes, asserting that the insurance agreement is unenforceable because it was not signed by 925 Madison, and instead refers to a non-existent entity. Ace also points to an unsigned, undated rider and a certificate of insurance that misidentifies the owner. It maintains that factual disputes remain concerning the relationship between Ace, Sierra Real Estate, and 925 Madison. Ace asserts that the certificate of insurance is not evidence of additional-insured

coverage and that 925 Madison has not produced a policy endorsement establishing that it was in fact named as an additional insured. Lastly, Ace argues that because plaintiff did not sustain a “grave injury” within the meaning of the Workers’ Compensation Law, common-law indemnification and contribution are barred.

In reply, 925 Madison argues that the agreement is enforceable notwithstanding the misidentification of the owner. It maintains that although the agreement and Rider A identified “956 Madison Ave. Inc.” as the Owner, this was a mutual mistake, and reformation is appropriate so that the agreement reflects 925 Madison as the true owner. 925 further asserts that Ace’s insurer’s acceptance of the tender confirms its obligation to defend and indemnify. It argues that enforceability does not depend on the formality of a signature where the parties’ conduct shows intent to be bound. 925 Madison also contends that Ace’s reliance on the Workers’ Compensation Law is misplaced and does not preclude contractual indemnity, and reiterates that because it did not supervise or control the work, common-law indemnification lies against Ace.

i. Contractual Indemnification

“A party is entitled to full contractual indemnification provided that the intention to indemnify can be clearly implied from the language and purposes of the entire agreement and the surrounding facts and circumstances” (*Karwowski v 1407 Broadway Real Estate, LLC*, 160 AD3d 82, 87-88 [1st Dept 2018] quoting *Drzewinski v Atlantic Scaffold and Ladder Co.*, 70 NY2d 774, 777 [1987]).

On a contractual-indemnification motion, the movant meets its prima-facie burden by (i) producing the agreement and (ii) demonstrating, with admissible evidence, that the claim arose from the indemnitor’s work and that the indemnitee was not actively negligent (*see Alarcon v*

UCAN White Plains Hous. Dev. Fund Corp., 100 AD3d 431, 433 [1st Dept 2012]); *see also Rodriguez v Dormitory Auth. of the State of N.Y.*, 104 AD3d 529, 530-531 [1st Dept 2013]).

With respect to contractual indemnification, a party may be granted conditional summary judgment on such a claim, pending determination of its own negligence (*see Torres v Love Lane Mews, LLC*, 156 AD3d 410, 412 [1st Dept 2017] [owner granted conditional summary judgment on indemnification claim where its potential liability under Labor Law § 240(1) was purely vicarious]).

Here, the October 29, 2018 agreement contains indemnification language benefitting the “Owner.” Although the agreement names “956 Madison Ave. Inc.” as the Owner, 925 Madison argues that this was a mutual mistake and seeks reformation to reflect the true owner.

Reformation is available where a writing fails to express the parties’ intent due to mutual mistake (*Chimart Assoc. v Paul*, 66 NY2d 570, 573 [1986]). On this record, Ace performed the boiler work at the 925 Madison Avenue premises, invoiced Sierra Real Estate, and was paid, and 925 Madison tendered its defense under the agreement, which Ace’s insurer accepted subject to a reservation of rights. These surrounding facts and circumstances support that 925 Madison was the intended indemnitee notwithstanding the misnomer, that the claims arise from Ace’s work, and that there is no evidence of active negligence by 925 Madison such that any liability would be purely vicarious under the Labor Law.

On this record, 925 Madison is awarded summary judgment on its contractual indemnification claim, as the claims arise entirely from Ace’s work and there are no facts supporting 925 Madison’s active negligence (*see Alarcon*, 100 AD3d at 433).

ii. Common-Law Indemnification and Contribution

Ace argues that common-law indemnification and contribution are barred because plaintiff did not sustain a “grave injury” within the meaning of Workers’ Compensation Law § 11. That statute limits third-party claims against an employer for common-law indemnification or contribution absent a grave injury or an express contractual indemnity provision. A fractured ankle does not constitute a “grave injury” as defined by the statute, and plaintiff does not contend otherwise. Thus, 925 Madison’s common-law indemnification and contribution claims against Ace are barred by § 11 (*see Aramburu v Midtown W. B, LLC*, 126 AD3d 498, 500–501 [1st Dept 2015]).

iii. Insurance Procurement

An agreement to procure insurance is enforceable as an independent duty, and a breach thereof may be actionable even if an indemnification obligation is not triggered (*Kinney v Lisk Co.*, 76 NY2d 215, 218–219 [1990]). Reformation of a contract may be available where the writing fails to reflect the parties’ true agreement as a result of mutual mistake (*Chimart Assoc. v Paul*, 66 NY2d 570, 573 [1986]).

The October 29, 2018 agreement required Ace to procure commercial general liability and umbrella coverage naming 925 Madison as an additional insured. Ace’s insurer, Allied World, accepted 925 Madison’s tender of defense subject to a reservation of rights. Although questions remain as to whether coverage is complete—and Ace disputes enforceability of the agreement based on the misidentification of the owner and the lack of signatures—the obligation to procure insurance is an independent contractual duty (*Kinney v Lisk Co.*, 76 NY2d 215, 218–219 [1990]; *see Dorset v 285 Madison Owner LLC*, 214 AD3d 402, 404 [1st Dept 2023]). Given that Allied World accepted the tender subject to a reservation of rights and no conclusive proof

of an additional-insured endorsement naming 925 Madison has been produced, triable issues remain as to whether Ace fully procured or afforded the required coverage, precluding summary judgment.

III. CONCLUSION

Accordingly it is hereby

ORDERED that plaintiff's motion for summary judgment (Seq. 002) is granted to the extent of awarding plaintiff summary judgment on liability under Labor Law § 240(1) and under Labor Law § 241(6) predicated on 12 NYCRR 23-1.5(c)(3) and 12 NYCRR 23-6.1(b) and (d), and dismissing 925 Madison's comparative-negligence defenses only as to § 240(1) and otherwise remain as to § 241(6); and it is further

ORDERED that 925 Madison Avenue, Inc.'s motion for summary judgment (Seq. 003) is denied insofar as it seeks dismissal of plaintiff's Labor Law §§ 240(1) and 241(6) claims; and it is further

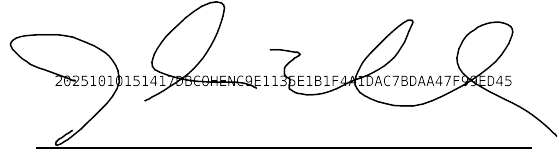
ORDERED that 925 Madison's motion is granted without opposition dismissing plaintiff's Labor Law § 200 and common-law negligence claims; and it is further

ORDERED that 925 Madison's motion is granted to the extent of awarding summary judgment in its favor on its third-party claim for contractual indemnification against Ace-Atlas Corp.; and it is further

ORDERED that 925 Madison's motion for summary judgment on its third-party claims for common-law indemnification, contribution, and failure to procure insurance is denied; and it is further

ORDERED that the balance of relief sought is denied; and it is further

ORDERED that the parties are to appear for a settlement/trial scheduling conference on January 28, 2026, at 9:30 a.m. at 71 Thomas Street, Room 305, New York, New York.



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10/10/2025

DATE

DAVID B. COHEN, 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