At an IAS Part 29 of the Supreme Court of the State of New York, County of Kings, at the Courthouse located at 360 Adams Street, Brooklyn, New York 11021 on the 17th day of December 2025

P R E S E N T:

HON. WAYNE SAITTA, Justice

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EMILIO MORALES,

Plaintiffs,

DECISION & ORDER
Index No.: 513903/2018

- AGAINST -

Motion Sequence: 14-17

1294 PARK PLACE, LLC, Z & J MANAGEMENT LLC, MARLY BUILDING SUPPLY CORP., MARLY BUILDING MATERIALS INC., 1296 PARK PLACE PH LLC, NEW STYLE DEVOLPMENT INC, TRIPLE C BUILDERS LLC, TIGRE HOME IMPROVEMENT CORP, ARSENAL SCAFFOLD INC, MARLY INDUSTRIAL CORP,

Defendants.

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This action arises from injuries sustained by Plaintiff EMILIO MORALES on October 17, 2017, during a construction project involving adjacent buildings located at 1294 and 1296 Park Place in Brooklyn, where MORALES was employed as a laborer by Z&J MANAGEMENT LLC ("Z&J"), the general contractor, and fell from a temporary plywood platform on the roof of 1294 Park Place when the platform collapsed as pallets of concrete masonry units ("CMUs") were being hoisted and unloaded onto the roof.

The buildings at 1294 and 1296 Park Place were owned by separate entities, 1294 PARK PLACE LLC ("1294 PARK"), the owner of 1294 Park Place, and 1296 PARK PLACE PH LLC ("1296 PARK"), the owner of 1296 Park Place. The buildings were being renovated simultaneously under contracts with the general contractor, Z&J.

Plaintiff commenced this action asserting claims under Labor Law §§ 200, 240(1), and 241(6), against the two property owners (1294 PARK and 1296 PARK); the three related material-delivery companies whose crane delivered the CMU pallets (MARLY INDUSTRIAL CORP., MARLY BUILDING SUPPLY CORP., and MARLY BUILDING MATERIALS INC., collectively the "MARLY Defendants"); three subcontractors, TRIPLE C BUILDERS LLC ("TRIPLE C"); TIGRE HOME IMPROVEMENT CORP. ("TIGRE"); ARSENAL SCAFFOLD INC. ("ARSENAL"); and a developer, NEW STYLE DEVELOPMENT INC. ("NEW STYLE").

Various Defendants also asserted multiple cross-claims against each other for indemnification and contribution.

There are four related motions for summary judgment. Plaintiff moves for partial summary judgment on his Labor Law §§ 240(1) and 241(6) claims against Defendants 1294 PARK and the MARLY Defendants.

Defendant 1296 moves for summary judgment dismissing all of Plaintiff's Labor Law §§ 200, 240(1), and 241(6) claims, and all cross-claims against Defendant 1296 PARK.

The MARLY Defendants move for summary judgment dismissing Plaintiff's Labor Law §§ 240(1), 241(6), and 200 and common-law negligence claims, as well as all cross-claims asserted against the MARLY Defendants.

Defendant TRIPLE C moves for summary judgment dismissing all claims and cross-claims asserted against it.

Defendant 1296 PARK

Labor Law §§ 240(1) and 241(6)

As the owner of the adjacent property, 1296 PARK moves for summary judgment and asserts that it had no control or involvement in the work at 1294 Park Place. Plaintiff MORALES contends that the work at both properties was part of a single, unified project, commonly referred to as "1294/1296", and that materials, labor, and supervision were shared between the two sites. Plaintiff argues that, for that reason, 1296 PARK should be held liable as an owner even though each property was separately owned and governed by distinct contracts and permits, and even though 1296 PARK was not the general contractor for the construction activity taking place at 1294 Park Place.

It is undisputed that Plaintiff MORALES was working on a temporary platform constructed on 1294 PARK's roof, that the hoisting operation and staging of pallets took place entirely at 1294 Park Place, and that Defendant 1294 PARK, not Defendant 1296 PARK, held title to that parcel. It is further undisputed that the collapse occurred at 1294 Park Place during the delivery of pallets of CMUs by the MARLY Defendants, and not at 1296 Park Place.

Although DOB inspectors cited 1296 PARK for undermining the party-wall footing and for unbraced CMU walls on its side of the property line, those violations pertain to work on 1296 PARK's lot, and none of the violations issued were related to the cause of the collapse at 1294 Park Place.

Labor Law § 240(1) imposes a nondelegable duty on property owners and contractors for elevation-related risks, and Labor Law § 241(6) imposes a nondelegable duty to comply with specific Industrial Code provisions governing construction, excavation, and demolition work. The statute bases liability on ownership of the property

where the accident occurred, not from any active role in the construction. The fact that Z&J served as general contractor on projects at both 1294 and 1296 Park Place does not convert 1296 PARK into an owner or contractor for the construction activity at 1294 Park Place, where the accident occurred, and there is no management or construction agreement in the record that would combine the two parcels into a single legal project for purposes of Labor Law liability.

The cases interpreting the scope of "owner" liability under Labor Law § 240(1) do not support extending that definition to the owner of an adjacent property such as 1296. In *Berner v Town of Cheektowaga*, 151 AD3d 1636 (4th Dept 2017), the plaintiff brought a § 240(1) claim after falling from a ladder while repairing a vacant home. The Town had contracted with the plaintiff's employer to perform the work under its statutory authority, but the court held that "owner" includes only the titleholder of the accident site or a party with a property interest who "fulfilled the role of owner by contracting to have work performed for his or her benefit" (quoting *Farruggia v Town of Penfield*, 119 AD3d 1320, at 1321 [4th Dept 2014], lv denied 24 NY3d 906 [2014]). Because the Town held no title or property interest, it was not an owner under § 240(1).

The same reasoning applies here: 1296 PARK had no ownership interest in 1294 Park Place, the location of the collapse.

Plaintiff identifies no contract, easement, lease, or other property interest by which 1296 PARK "fulfilled the role of owner" for the work at 1294 Park Place, and no evidence that 1296 PARK retained or exercised authority to supervise or control the hoisting or loading activity on 1294 PARK's roof. See *Scaparo v Village of Ilion*, 13 NY3d 864 (2009); *Copertino v Ward*, 100 AD2d 565 (2d Dept 1984); *Farruggia v Town of Penfield*, 119

AD3d 1320 (4th Dept 2014); *Berner v Town of Cheektowaga*, 151 AD3d 1636 (4th Dept 2017).

Accordingly, 1296 PARK is entitled to dismissal of the § 240(1) and § 241(6) claims against it.

Labor Law § 200 / Common-Law Negligence

Defendant 1296 PARK may not be held liable under Labor Law § 200 or common-law negligence for an accident that occurred entirely on the adjoining property at 1294 Park Place where it did not launch the force of harm.

Labor Law § 200 codifies an owner's common-law duty to provide workers with a safe place to work.

Here, Defendant 1296 PARK has no duty to maintain the adjoining building at 1294 Park Place in a safe condition. The record contains no evidence that Defendant 1296 PARK owned, occupied, or controlled any portion of 1294 PARK's roof, or that it created the dangerous condition or controlled the work that caused the collapse.

MORALES's assertion that the properties functioned as a combined jobsite does not establish the ownership, control, or supervisory authority at 1294 required under § 200. Without evidence that Defendant 1296 PARK controlled the premises at 1294 Park Place or directed the injury-producing work, liability cannot be imposed under either the premises-condition or means-and-methods theory (see *Ortega v Puccia*, 57 AD3d 54, at 61–62 [2d Dept 2008]; *Comes v New York State Elec. & Gas Corp.*, 82 NY2d 876, at 877 [1993]). Accordingly, the Labor Law § 200 and common-law negligence claims against Defendant 1296 PARK must be dismissed.

Defendant Triple C Builders LLC

TRIPLE C moves for summary judgment dismissing all claims and cross-claims against it. The undisputed record shows that TRIPLE C performed no work on the project. Although TRIPLE C was originally contacted to file for permits for the project at 1294 Park Place, Defendant 1294 PARK subsequently decided to hire Z&J as the general contractor in its place. Z&J oversaw all of the construction work at the site, including erecting the temporary plywood platform and directing the CMU deliveries.

TRIPLE C's principal, Yaakov Geldzahler, states in his affidavit and deposition testimony that the company never signed a contract, never sent workers or equipment to the property, and had no involvement in the work that preceded the collapse.

No evidence has been offered in opposition showing that TRIPLE C participated in, supervised, or controlled any of the construction work. The Labor Law imposes liability only on owners, contractors, and statutory agents who had the authority to supervise or control the injury-producing work (see *Ross v Curtis-Palmer Hydro-Elec. Co.*, 81 NY2d 494, at 500–502 [1993]; *Blake v Neighborhood Hous. Servs.*, 1 NY3d 280, at 293 [2003]). An entity that neither owned the property, nor contracted for the work, nor exercised authority at the site is not a proper Labor Law defendant (see *Kelarakos v Massapequa Water Dist.*, 38 AD3d 717, at 718 [2d Dept 2007]).

Because TRIPLE C was not involved in any of the work at the site, its motion for summary judgment must be granted, and all claims and cross-claims against it must be dismissed.

PLAINTIFF'S MOTION

Plaintiff moves for partial summary judgment against Defendant 1294 PARK and the MARLY Defendants on his claims pursuant to Labor Law §§ 240(1) and 241(6) and to

strike affirmative defenses of culpable conduct defenses. Defendant 1294 PARK opposes the motion, and the MARLY Defendants cross-move for summary judgment dismissing all claims and cross-claims asserted against them.

Defendant 1294 PARK PLACE

Labor Law § 240(1)

Labor Law § 240(1) imposes absolute, vicarious liability on owners for elevation-related injuries where a safety device fails to provide proper protection, regardless of the owner's supervision or control (*Gordon v Eastern Ry. Supply, Inc.*, 82 NY2d 555, at 559–560 [1993]). Courts impose liability whenever the elevation device collapses or fails, without requiring proof of negligence or notice (*Gomez v City of New York*, 63 AD3d 511, at 512 [1st Dept 2009]).

Plaintiff MORALES was working as a laborer for Z&J on a temporary plywood platform built on the roof of 1294 Park Place to receive pallets of CMUs. Three pallets, each weighing roughly 1,800 to 2,000 pounds, had already been placed on the deck. As a fourth pallet was being lowered, some witnesses described the load as coming down fast and striking the platform, while others stated that the platform failed under the accumulated weight.

The accident occurred when the temporary plywood platform on the roof of 1294 Park Place collapsed.

The platform consisted of plywood sheets laid across joists and served as a landing surface for pallets of CMUs being hoisted by a truck-mounted crane operated by employees of the MARLY Defendants. Immediately afterward, the deck cracked and collapsed, which sent MORALES approximately 30 to 35 feet through the structure below.

A DOB inspector issued a violation that same day noting excessive material loading on a partially constructed floor as one of the unsafe conditions observed at the site.

Whether the collapse resulted from the sudden impact of the fourth pallet being lowered too quickly or from overloading is immaterial. Under Labor Law § 240(1), liability attaches whenever an elevation-related safety device fails to provide proper protection.

Defendant 1294 PARK PLACE argues that the collapse was unforeseeable, but foreseeability is not an element of § 240(1). None of the cases cited by Defendant support foreseeability as a defense. *Gomez v City of New York*, 63 AD3d 511 (1st Dept 2009), imposes liability for the collapse of an elevation device without regard to foreseeability; *Rizzuto v L.A. Wenger Contr. Co.*, 91 NY2d 343 (1998), concerns Labor Law §§ 241(6) and 200; and *Hughes v Tishman Constr. Corp.*, 40 AD3d 305 (1st Dept 2007), addresses common-law negligence and means-and-methods supervision. None of these authorities limit the absolute liability imposed by § 240(1).

Because the temporary platform failed while being used as a safety device for elevated work, and because Defendant 1294 PARK PLACE was the owner of the property where the accident occurred, the statute applies, and Plaintiff MORALES is entitled to summary judgment on his Labor Law § 240(1) claim against 1294 PARK PLACE.

Labor Law § 241(6)

Labor Law § 241(6) imposes a nondelegable duty on owners and contractors to comply with the Industrial Code's concrete, specific requirements, and a plaintiff must establish both a violation of a particular rule and that the violation was a proximate cause of the accident (see *Ross v Curtis–Palmer Hydro–Elec. Co.*, 81 NY2d 494 [1993]; *Misicki v Caradonna*, 12 NY3d 511 [2009]). The sections invoked here, 12 NYCRR 23-2.1(a)(2)

and 23-8.1(f)(2)(i), have been recognized as sufficiently specific to support a § 241(6) claim (see *Hayden v 845 UN Ltd. Partnership*, 304 AD2d 499 [1st Dept 2003]; *Wein v East Side 11th & 28th, LLC*, 186 AD3d 1579 [2d Dept 2020]; *Marrero v 2075 Holding Co.*, 106 AD3d 408 [1st Dept 2013]; *Rizzuto v L.A. Wenger Contr. Co.*, 91 NY2d 343, at 350 [1998]).

By the time the collapse occurred, three pallets, each weighing approximately 1,800 and 2,000 pounds, had already been placed on the temporary plywood platform. As the fourth pallet was being lowered, some witnesses described the load as coming down fast and striking the surface with a hard landing, while others described the descent as normal.

Immediately after the fourth pallet reached the platform, the plywood cracked along the joists and the deck gave way, causing MORALES to fall approximately 30 to 35 feet through the structure below. A DOB inspector later issued a violation identifying excessive loading of a partially constructed floor as one of the unsafe conditions observed at the site.

Plaintiff alleges violations of two specific sections of the Industrial Code: 12 NYCRR 23-2.1(a)(2) and 23-8.1(f)(2)(i).

Section 23-2.1(a)(2) prohibits storing materials on any floor or platform in an amount or weight that renders the structure unsafe.

Section 23-8.1(f)(2)(i) prohibits any sudden acceleration or deceleration of a moving load during a hoisting operation. Here, the testimony describing a hard landing moments before the platform failed aligns with the type of uncontrolled impact that the regulation is intended to prevent.

The record establishes only two possible causes of the collapse: either the platform was overloaded after the fourth pallet was added, or because the fourth pallet descended with excessive force. No evidence in the record identifies any other cause of the collapse, such as wind, debris, or a hidden defect unrelated to the hoisting and loading activity. Either cause constitutes a violation of one of the cited Industrial Code provisions. A collapse caused by a sudden, uncontrolled landing would violate § 23-8.1(f)(2)(i), while a collapse caused by cumulative weight would violate § 23-2.1(a)(2).

Because Defendant 1294 PARK was the owner of the premises where the accident occurred, it is vicariously liable for violations of the Industrial Code. As the record establishes that violations of one of the two cited provisions were a substantial factor in causing the temporary platform to collapse, Plaintiff MORALES is entitled to summary judgment on his Labor Law § 241(6) claim against Defendant 1294 PARK.

The MARLY Defendants

Labor Law § 240(1)

Plaintiff moves for summary judgment on his claim pursuant to § 240(1) against the MARLY Defendants, and the MARLY Defendants move for summary judgment dismissing Plaintiff's § 240(1) claim, together with all other claims and cross-claims asserted against them.

The MARLY Defendants delivered the pallets of CMUs to the roof using a truck-mounted crane. Z&J, the general contractor, told MARLY's crane operator where each pallet should be placed on the temporary plywood platform. Three pallets were on the deck when the fourth pallet was lowered. Witnesses disagreed on whether this last pallet came down fast, but the platform failed as soon as it landed. A DOB inspector later issued a violation for excessive loading on a partially built floor.

There are two possible causes of the collapse. The first is that the MARLY crane operator overloaded the platform beyond its capacity. The second is that the crane operator allowed the fourth pallet to descend too quickly.

If the cause of the collapse was overloading, that would not constitute a violation of § 240(1) by the MARLY Defendants.

While the MARLY Defendants' employee hoisted the pallets onto the platform, they were not involved in constructing or maintaining the platform on the roof and therefore were not the owner's agent for purposes of § 240(1).

On the other hand, if the cause of the collapse was the rapid descent of the fourth pallet, that would constitute a violation of § 240(1) by the MARLY Defendants.

The MARLY Defendants are liable for injury caused by their crane operator's hoisting of the pallets. Labor Law § 240(1) requires owners and contractors involved in hoisting operations to ensure that the safety devices used in hoisting "shall be so constructed, placed and operated as to give proper protection to a person so employed" (Id.).

The fact that the fourth pallet did not directly strike the Plaintiff is not a bar to the application of § 240(1) (see *Runner v New York Stock Exch., Inc.*, 13 NY3d 599, at 603–604; *Andresky v Wenger Constr. Co., Inc.*, 95 AD3d 1247, at 1248–1249 [2d Dept 2012]; *Treile v Brooklyn Tillary, LLC*, 120 AD3d 1335, at 1337–1338 [2d Dept 2014]).

The Court of Appeals in *Runner* held, "Manifestly, the applicability of the statute in a falling object case such as the one before us does not under this essential formulation depend upon whether the object has hit the worker. The relevant inquiry, one which may be answered in the affirmative even in situations where the object does not fall on the

worker, is rather whether the harm flows directly from the application of the force of gravity to the object" (*Runner* at 604).

If the crane operator did not properly control the descent of the fourth pallet and that was the cause of the collapse, then the operator's actions violated § 240(1).

As it has not yet been determined whether the collapse was caused by overloading or the descent of the fourth pallet, both Plaintiff's motion for summary judgment on his claim pursuant to § 240(1) and the MARLY Defendants' motion to dismiss the § 240(1) claim against them must be denied.

Labor Law § 241(6)

Plaintiff moves for summary judgment on his claim pursuant to § 241(6) against the MARLY Defendants, and the MARLY Defendants move for summary judgment dismissing Plaintiff's § 241(6) claim against them.

Pursuant to Labor Law § 241(6), the MARLY Defendants may be liable as contractors if they violated a specific provision of the Industrial Code that was a proximate cause of the platform's collapse (see *Ross v Curtis–Palmer Hydro–Elec. Co.*, 81 NY2d 494, at 501–502 [1993]; *Rizzuto v L.A. Wenger Contr. Co.*, 91 NY2d 343, at 351–352 [1998]).

The record shows that the MARLY Defendants' crane operator alone controlled the hoist, the descent of the pallet, and the manner in which the load was landed. The record also indicates that MARLY's operators were responsible for inspecting the landing area before lowering materials. Z&J Management LLC's role in sequencing deliveries and selecting landing locations does not negate the MARLY Defendants' direct authority over the injury-producing phase of the hoisting operation. These facts establish that the

MARLY Defendants exercised the requisite control over the hoisting activity, and MARLY is therefore a statutory agent within the meaning of § 241(6) (see *Mejia v Unique Dev. Holding Corp.*, 188 AD3d 574 [1st Dept 2020]).

Plaintiff alleges violations of Industrial Code §§ 23-2.1(a)(2) and 23-8.1(f)(2)(i), each of which has been recognized as sufficiently specific to support a § 241(6) claim (see *Wein v East Side 11th & 28th, LLC*, 186 AD3d 1579 [2d Dept 2020]; *Marrero v 2075 Holding Co.*, 106 AD3d 408 [1st Dept 2013]; *Hayden v 845 UN Ltd. Partnership*, 304 AD2d 499 [1st Dept 2003]).

It has not been determined whether the collapse was caused by overloading or by the descent of the fourth pallet. There was no evidence presented of any other cause of the collapse.

However, as discussed above, either overloading the platform or permitting the rapid descent of the fourth pallet would constitute a violation of the Industrial Code.

Whether the cause of the collapse was overloading or the rapid descent of the fourth pallet, either would constitute a violation of the Industrial Code on the part of the MARLY Defendants.

Accordingly, Plaintiff is entitled to summary judgment on his claim pursuant to §241(6) against the MARLY Defendants, and the MARLY Defendants' motion for summary judgment dismissing the § 241(6) claim against them must be denied.

Labor Law § 200 / Common-Law Negligence

The MARLY Defendants move for summary judgment dismissing Plaintiff's Labor Law § 200 and common-law negligence claims against them.

Plaintiff alleges that the MARLY Defendants' crane operator was negligent in failing to ensure that the platform onto which the pallets were being landed had the

capacity to sustain the load, and in landing the final pallet onto the roof platform with excessive force.

Labor Law § 200 imposes liability only where a defendant exercised authority over the manner of the work that led to the injury. Under *Ortega v Puccia*, 57 AD3d 54, at 61–62 (2d Dept 2008), liability based on a dangerous premises condition requires proof that the defendant created the condition or had actual or constructive notice of it.

Although Z&J's foreman directed the laborers and selected the landing locations, the MARLY Defendants' crane operator controlled the hoisting equipment, executed the landings, and was responsible for inspecting the landing area before lowering materials.

It has not been established whether the collapse was caused by the MARLY Defendants' crane operator allowing the fourth pallet to descend too forcefully or by overloading the platform.

If the cause of the collapse was the descent of the fourth pallet, there is a question of fact as to whether MARLY's operator was negligent in failing to properly control the pallet's descent.

If the cause of the collapse was overloading of the platform, whether the operator was negligent in failing to properly inspect the platform or recognize that the structure was being overloaded likewise cannot be resolved as a matter of law.

Accordingly, the MARLY Defendants' motion for summary judgment dismissing the Labor Law § 200 and common-law negligence claims against them must be denied.

Cross-Claims

Several defendants asserted cross-claims for common-law indemnification, contractual indemnification, contribution, and failure to procure insurance.

Defendant 1296 PARK asserted cross-claims for contribution, common-law indemnification, contractual indemnification, and failure to procure insurance against 1294 PARK, Z&J, and the MARLY Defendants.

Defendant 1294 PARK asserted cross-claims for common-law indemnification and contribution against Z&J, the MARLY Defendants, 1296 PARK, NEW STYLE, TIGRE, and ARSENAL.

The MARLY Defendants asserted cross-claims for common-law indemnification, contractual indemnification, contribution, and failure to procure insurance against Defendants 1294 PARK, Z&J, 1296 PARK, NEW STYLE, TRIPLE C, TIGRE, and ARSENAL.

Defendant TRIPLE C asserted cross-claims for common-law indemnification and contribution against Z&J, the MARLY Defendants, 1296 PARK, NEW STYLE, TIGRE, and ARSENAL.

Defendant ARSENAL asserted cross-claims for common-law and contractual indemnification and contribution against Defendants 1294 PARK, 1296 PARK, Z&J, the MARLY Defendants, TRIPLE C, NEW STYLE, and TIGRE.

Defendants 1296 PARK, TRIPLE C, and the MARLY Defendants move to dismiss all cross-claims asserted against them.

In his order of November 8, 2021 granting Plaintiffs motion to discontinue his claims against Defendants Z&J, ARSENAL, and TIGRE, J Sweeney converted the cross claims against ARSENAL, and Z & J, into third-party claims.

As a preliminary matter, because Defendants 1296 PARK and TRIPLE C are being dismissed from the action because are not liable for the collapse, all cross-claims asserted by them and asserted against them should be dismissed.

The MARLY defendant move to dismiss the claims against it by Defendants 1294 Park and Arsenal

Defendant 1294 PARK's cross-claim for common-law indemnification and contribution against the MARLY Defendants is premised on the theory that, if 1294 PARK is held liable to Plaintiff, such liability would be purely vicarious as an owner based on the negligence of contractors or agents at the site, including the MARLY Defendants. As discussed above, there remain unresolved factual issues as to whether the MARLY Defendants' crane operator was negligent in connection with the hoisting and landing of the pallets. Accordingly, dismissal of Defendant 1294 PARK's cross-claim for common-law indemnification and contribution against the MARLY Defendants is not warranted.

The MARLY Defendants move to dismiss ARSENAL's third-party claims against them for common-law and contractual indemnification and contribution.. As ARSENAL did not oppose the MARLY Defendants' motion, ARSENAL's third-party claims against the MARLY Defendants should be dismissed.

As noted above, the action is being dismissed against Defendants 1296 PARK and TRIPLE C, their cross claims against the MARLY Defendants are moot.

WHEREFORE, it is hereby ORDERED that Plaintiff MORALES's motion for partial summary judgment under Labor Law § 240(1) as against Defendant 1294 PARK, is granted; and it is further,

ORDERED that Plaintiff MORALES's motion for partial summary judgment under Labor Law § 240(1) as against the MARLY Defendants, is denied; and it is further,

ORDERED that Plaintiff MORALES's motion for partial summary judgment on his claims pursuant to Labor Law § 241(6) against Defendant 1294 PARK is granted; and it is further,

ORDERED that Plaintiff MORALES's motion for partial summary judgment on his claims pursuant to Labor Law § 241(6) against the MARLY Defendants is granted; and it is further,

ORDERED that Defendant 1296 PARK's motion for summary judgment is granted, and all claims and cross-claims asserted in this action against Defendant 1296 PARK are dismissed; and it is further,

ORDERED that Defendant TRIPLE C's cross-motion for summary judgment is granted, and all claims and cross-claims asserted against Defendant TRIPLE C are dismissed; and it is further,

ORDERED that all cross-claims asserted by Defendants 1296 PARK and TRIPLE C are dismissed as moot; and it is further,

ORDERED that the MARLY Defendants' motion for summary judgment dismissing Plaintiff's claims pursuant to Labor Law §§ 240(1), 241(6), and 200, and common-law negligence, is denied; and it is further,

ORDERED that the MARLY Defendants' motion to dismiss the cross-claim for common-law indemnification asserted against them by Defendant 1294 PARK is denied; and it is further,

ORDERED that the third party claims asserted by Defendant ARSENAL against the MARLY Defendants are dismissed.

This constitutes the Decision and Order of the Court.

ENTER:

JSC

HON. WAYNE SAITTA
J.S.C.

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