

Reyes v Hoffman St. Dev. LLC

2025 NY Slip Op 35118(U)

August 4, 2025

Supreme Court, Bronx County

Docket Number: Index No. 23354/2020E

Judge: Matthew Parker-Raso

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SUPREME COURT OF THE STATE OF NEW YORK
BRONX COUNTY

PRESENT: HON. MATTHEW PARKER-RASO PART 21

Justice

-----X

KELSY FERNANDEZ REYES,
Plaintiff,

INDEX NO. 23354/2020E

MOTION DATE

MOTION SEQ. NO. 2

- v -

HOFFMAN STREET DEVELOPMENT LLC,
AB CAPSTONE BUILDERS CORP,

DECISION + ORDER ON MOTION

Defendant.

-----X

HOFFMAN STREET DEVELOPMENT LLC, AB CAPSTONE BUILDERS CORP

Third-Party Index No.

Plaintiff,

-against-

PRISTINE QUALITY CORP.

Defendant.

-----X

The following e-filed documents, listed by NYSCEF document number (Motion 2) 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112

were read on this motion to/for JUDGMENT - SUMMARY

Motion sequence 2 herein is resolved in accordance with the attached memorandum decision and order.

8/4/2025
DATE

MPH

CHECK ONE:

Form checkboxes for Case Disposed, Granted, Settle Order, Includes Transfer/Reassign

CASE DISPOSED
GRANTED
DENIED
SETTLE ORDER
INCLUDES TRANSFER/REASSIGN

Form checkboxes for Non-Final Disposition, Granted in Part, Submit Order, Fiduciary Appointment

NON-FINAL DISPOSITION
GRANTED IN PART
SUBMIT ORDER
FIDUCIARY APPOINTMENT

Form checkboxes for Other, Reference

OTHER
REFERENCE

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF THE BRONX: PART 21**

-----X
KELSY FERNADEZ REYES,

Index No: 23354/2020E

Plaintiff,

DECISION/ORDER

-against-

Present:

Hon. Matthew Parker-Raso
J.S.C

HOFFMAN STREET DEVELOPMENT LLC et al

Defendants.

-----X

Notice of Motion, Affirmation in Support, and Exhibits	No(s). NYSCEF Docs: 70-106
Answering Affidavit and Exhibits	No(s). NYSCEF Docs: 108-109
Replying Affidavit and Exhibits	No(s). NYSCEF Doc: 111
Other	No(s).

Upon the foregoing cited papers, the Decision/Order of this Court is as follows.

Defendants, HOFFMAN STREET DEVELOPMENT LLC, and AB CAPSTONE BUILDERS CORP. (collectively referred to as “defendants”), move for summary judgment pursuant to CPLR §3212(b) dismissing plaintiff’s complaint in its entirety, including plaintiff’s Labor law §240(1), §241(6), §200 and common law negligence claims. Plaintiff opposes the motion and argues that questions of fact exist as to defendants’ liability. In the event plaintiff’s claims are permitted to stand, defendants alternatively move for summary judgment on their claims against third-party defendant, PRISTINE QUALITY CORP. (“Pristine”), for contractual indemnity and breach of contract.

Plaintiff commenced this action by filing as summons and complaint on March 9, 2020. The complaint alleges, *inter alia*, personal injuries as a result of an accident on a construction site located at 2408 Hoffman Street, Bronx, New York. At the time of the accident, plaintiff alleges that he was employed as a laborer by Pristine to work at the construction site owned by the defendant, Hoffman Street Development LLC (“Hoffman”). Co-defendant, AB Capstone Builders Corp. (“AB”), was the general contractor for the renovation. Plaintiff alleges that he tripped over

a piece of debris causing him to fall backwards and drop a concrete board he was carrying onto his right foot. On or about September 28, 2020, defendants joined issue with service of an answer denying the allegations set forth in plaintiff's complaint and asserting several affirmative defenses.

The parties engaged in extensive discovery and on January 19, 2024, plaintiff filed Note of Issue indicating that discovery is complete and that this matter is ready for trial. On March 12, 2024, defendants moved to vacate note of issue. On May 14, 2024, defendants' Motion to Vacate was denied and a final status conference was scheduled for September 24, 2024. The scheduling order dated September 24, 2024, declared all discovery complete and directed the filing of any motion for summary judgment within 60 days.

On November 22, 2024, defendants filed the instant motion. Plaintiff filed an opposition on February 11, 2025. Pristine filed an affirmation in support of defendants' motion for summary judgment seeking dismissal of plaintiff's complaint and in opposition to the portion of defendants' motion seeking summary judgment on their third-party complaint against Pristine. Defendants' motion was adjourned to March 10, 2025, as stipulated and agreed to by all parties. Oral argument on the motion was held on June 30, 2025.

The Instant Application

Defendants move for summary judgment pursuant to CPLR §3212 dismissing plaintiff's Labor Law §200, §241(6) and common law negligence claims. At oral argument plaintiff conceded that Labor Law §240(1) does not apply. Therefore, the claim under §240(1) is dismissed.

Regarding plaintiff's claims under §241(6), §200 and common law negligence, defendants contend that these claims should be dismissed because the hallway where the accident occurred was free of garbage and debris on the date of the alleged accident, and that plaintiff's testimony alone that he tripped over garbage is insufficient to raise a triable issue of fact. In support of this argument, defendants submit the transcript of Mr. Arbiv, the project manager on site employed by AB. Mr. Arbiv testified that he implemented procedures to maintain cleanliness and prevent hazardous conditions on site (NYSCEF Doc. 91). This procedure included piling debris off to the side and away from the work areas for AB laborers to then collect and place into bins and remove it from the site (NYSCEF Doc. 91). Mr. Arbiv walked the site multiple times a day to ensure cleanliness, emphasizing that walkways were a primary focus and needed to be clear at all times (NYSCEF Doc. 91). On the day of the alleged accident, Mr. Arbiv inspected the sixth floor hallway approximately thirty minutes before the plaintiff's alleged accident occurred there and observed

no debris in the hall (NYSCEF Doc. 91). Mr. Arbiv also prepared an Accident Report on the day of the incident, which noted that no unsafe conditions were present and attributed the incident to “worker carelessness” (NYSCEF Doc. 95).

Defendants also submit the testimony of Mr. Ruiz, Pristine’s foreman, who allegedly directed plaintiff’s work on the jobsite. Mr. Ruiz testified that the hallways on the fifth and sixth floors were in a perfectly clean condition when he left for lunch and that there was no garbage or debris (NYSCEF Doc. 92). Plaintiff’s alleged accident occurred shortly after while Mr. Ruiz was at lunch picking up sandwiches for the jobsite workers (NYSCEF Doc. 92). Mr. Ruiz further testified that there was no work performed in the hallways on the fifth and sixth floors on the day of plaintiff’s accident (NYSCEF Doc. 92). Additionally, plaintiff did not tell Mr. Ruiz that he tripped and fell due any garbage or debris on the ground in the hallway, but that a piece of sheetrock fell on him when he was cutting it in the bathroom (NYSCEF Doc. 92).

In further support, defendants submit affidavits from Pristine’s former laborers, Jorge Tacuri and Roberto Guerra, who both affirm that during their time at the 2408 Hoffman Street project, the jobsite was always maintained in a clean and safe condition (NYSCEF Docs. 93, 94). Mr. Tacuri and Mr. Guerra both stated that they had never seen any dirt, debris, or garbage on the ground, nor had they received any complaints from others about such conditions or about the worksite being otherwise dangerous (NYSCEF Docs. 93, 94). Mr. Tacuri and Mr. Guerra both further affirmed that he did not witness any incident involving the plaintiff (NYSCEF Docs. 93, 94).

In the alternative, defendants argue that they are entitled to summary judgment on defendants’ contractual indemnification and breach of contract claims against third-party defendant.

In opposition, plaintiff contends that defendants’ motion for summary judgment must be denied because questions of fact exist precluding dismissal of plaintiff’s Labor Law §241(6), §200 and common law negligence claims. Plaintiff testified that the accident occurred in the hallway close to the entrance to the bathroom in which plaintiff was installing cement board on the walls (NYSCEF Doc. 88). While lifting the concrete board to take to the bathroom, plaintiff tripped on “garbage” on the floor and fell backwards (NYSCEF Doc. 88). When he tripped, the concrete board he was holding fell from his hands and landed on his ankle (NYSCEF Doc. 88). Plaintiff maintains that he tripped on “garbage” but does not identify the item in any manner (size, material,

etc.) (NYSCEF Doc. 88). Plaintiff further testified that the garbage was scattered all over the hallway (NYSCEF Doc. 88). No one witnessed the accident; however, a co-worker saw plaintiff while he was lying on the ground (NYSCEF Doc. 88).

Summary Judgment Pursuant to CPLR §3212

The proponent of a motion for summary judgment must tender sufficient evidence in admissible form to show the absence of any material issue of fact and the right to entitlement to judgment as a matter of law (*Alvarez v. Prospect Hospital*, 68 N.Y.2d 320 [NY 1986]; *Winegrad v. New York University Medical Center*, 64 N.Y.2d 851 [NY 1985]). Once this showing has been made the burden shifts to the party opposing the motion to produce evidentiary proof in admissible form sufficient to establish the existence of material facts which require a trial of the action (*Zuckerman v. City of New York*, 49 N.Y. 2d 557 [1980]). Summary judgment is a drastic remedy that deprives a litigant of his or her day in court. Therefore, the party opposing a motion for summary judgment is entitled to all favorable inferences that can be drawn from the evidence submitted and the papers will be scrutinized carefully in a light most favorable to non-moving party (*Asaf v. Ropog Cab Corp.*, 153 A.D.2d 520 [1st Dept. 1989]). It is well settled that issue finding, not issue determination, is the key to summary judgment (*Rose v. Da Ecib USA*, 259 A.D. 2d 258 [1st Dept. 1999]). Summary judgment will only be granted if there are no material, triable issues of fact (*Sillman v. Twentieth Century-Fox Film Corp.*, 3 N.Y.2d 395 [NY 1957]).

Claims Under Labor Law §241(6)

Labor Law §241(6) is a “hybrid” statute, as the first sentence, “reiterates the general common-law standard of care,” while the second sentence imposes a nondelegable duty with respect to compliance with rules of the Commissioner which contain “specific, positive command[s]” (*Ross v. Curtis–Palmer Hydro–Elec. Co.*, 81 N.Y.2d 494, 503–504 [1993]). Thus, an owner or general contractor, “is vicariously liable without regard to [their] fault,” and “even in the absence of control or supervision of the worksite,” where a plaintiff establishes a violation of a specific and applicable Industrial Code regulation (*Rizzuto v. L.A. Wenger Contr. Co., Inc.*, 91 N.Y.2d 343, 348–350, 670 N.Y.S.2d 816, 693 N.E.2d 1068 [1998]). In addition, Labor Law § 241 (6) requires that a plaintiff establish that the violation of the safety regulation was the proximate cause of the accident (*see Gonzalez v Stern's Dep't Stores*, 211 A.D. 2d 414 [1st Dep't., 1995]).

Here, plaintiff alleges defendants violated §23-1.7(e)(1), (e)(2), and §23-2.1(a), (b) of the Industrial Code, and that said violations caused plaintiff's injuries.

Industrial Code Section §23-2.1(a) and (b)

§23-2.1(a), entitled "Storage of Material or Equipment", and §23-2.1(b) entitled "Disposal of Debris" provide as follows:

(a) Storage of material or equipment

(1) All building materials shall be stored in a safe and orderly manner. Material piles shall be stable under all conditions and so located that they do not obstruct any passageway, walkway, stairway or other thoroughfare.

(2) Material and equipment shall not be stored upon any floor, platform or scaffold in such quantity or of such weight as to exceed the safe carrying capacity of such floor, platform or scaffold. Material and equipment shall not be placed or stored so close to any edge of a floor, platform or scaffold as to endanger any person beneath such edge.

(b) Disposal of debris. Debris shall be handled and disposed of by methods that will not endanger any person employed in the area of such disposal or any person lawfully frequenting such area.

§23-2.1(a)(1) governs the storage of materials and requires that materials be stored in a manner that ensures stability (*Waitkus v. Metro. Hous. Partners*, 50 A.D.3d 260, 260 [1st Dept 2008]). Defendants argue that §23-2.1(a)(1) does not apply because the piece of cement board that plaintiff dropped on his foot was actively being used for the installation work and was not in storage. The Court does not agree with this analysis to the extent it implies the cement board was the proximate cause of the plaintiff's injury. Rather, plaintiff alleges that debris in the hallway was the proximate cause of the accident. Nevertheless, the Court finds that §23-2.1(a)(1) is inapplicable to the facts of this case. There is nothing in the record to dispute Mr. Arbiv's testimony that there was no debris stockpiled in the hallway and all materials and/or debris was confined to the rooms in the apartment where work was being done. Plaintiff does not allege that the garbage or debris was being stored in the hallway, nor that the hallway was an area designated for garbage storage. Therefore, the Court finds that the sixth-floor hallway where plaintiff's accident allegedly occurred was not an area where garbage was being stored.

§23-2.1(a)(2) serves to stop things, material, or equipment from falling from above. There is no allegation that plaintiff was caused to be injured by falling materials or that plaintiff himself was on scaffolding or a raised platform at the time of the alleged accident. Plaintiff states that he

tripped on garbage on the floor of a hallway which caused him to drop the sheetrock he was carrying onto his foot. Therefore, the Court finds §23-2.1(a)(1) and (2) of the Industrial Code are inapplicable to the facts of this case.

Further, §23-2.1(b) has been repeatedly held to lack the specificity requires for section 241(6) liability (*Gonzalez v Glenwood Mason Supply Co., Inc.*, 41 AD3d 338, 339 [1st Dept 2007]); (*Quinlan v City of New York*, 293 AD2d 262 [1st Dept 2002]); (*Canning v Barney's New York*, 289 AD2d 32 [1st Dept 2001]). Since 23-2.1(b) does not set forth specific, enforceable standards, it cannot form the basis for liability under Labor Law §241(6).

Accordingly, defendants motion for summary judgment on plaintiffs §241(6) cause of action premised on a violation of §23-2.1(a) and (b) is granted and such claims are hereby dismissed.

Industrial Code Section 23-1.7(e) "Tripping and Other Hazards"

Industrial Code §23-1.7(e) (1) & (2) provide as follows:

- (1) **Passageways.** All passageways shall be kept free from accumulations of dirt and debris and from any other obstructions or conditions which could cause tripping. All passageways shall be maintained in a safe condition for persons using the same.
- (2) **Working areas.** The parts of floors, platforms and similar areas where persons work or pass shall be kept free from accumulations of dirt and debris and from scattered tools and materials and from sharp projections insofar as may be consistent with the work being performed

The uncontroverted testimony of both the plaintiff and Mr. Ruiz establishes that no work was being performed in the hallway where plaintiff's accident occurred on the date in question. Rather, plaintiff and his co-workers were walking down the hallway to transport sheetrock into the bathroom of the apartment unit, where the installation work was taking place. Although plaintiff's counsel contends that the hallway constituted a "working area," counsel fails to cite any evidence in the record to support that assertion. As such, the argument is conclusory and without evidentiary foundation. Notably, other than this section, counsel repeatedly refers to the location of the incident as a "passageway" throughout their papers. Therefore, the Court finds that the sixth-floor hallway where plaintiff allegedly tripped on garbage and allegedly suffered injuries is not a working area under §23-1.7(e)(2). However, since the record establishes that they were walking through this

area to enter the apartment where work was being done, the Court finds that the area can be deemed as a passageway under §23-1.7(e)(1).

Defendants rely on *Branham v. Loews Orpheum Cinemas, Inc.*, to argue that plaintiff's testimony alone, that there was debris in the hallway, does not create a triable issue of fact that it was clean and there was nothing in the hallway (*Branham v. Loews Orpheum Cinemas, Inc.*, 31 A.D.3d 319, 325, 819 N.Y.S.2d 250, 257 [1st Dep't 2006]). However, the Court notes that in *Branham*, the defendants therein submitted photographs confirming the brightness of the aisle lights in response to the plaintiff's testimony that the theater was completely dark when she tripped and fell in the aisle. By contrast here, defendants rely solely on the testimony of employees associated with the Hoffman Street site. No photographs or other objective evidence has been submitted. While plaintiff does not specifically identify what he tripped over, there is also no objective evidence establishing that there was no garbage or debris in the sixth-floor hallway at the time of the alleged accident. Accordingly, the Court finds that there is a triable issue of fact as to whether there was garbage or debris in the hallway that caused plaintiff to trip.

In accordance with the above, defendants' motion for summary judgment dismissing plaintiff's §241(6) claim premised on violations of §23-1.7(e)(1) is denied but summary judgment dismissing §241(6) premised on §23-1.7(e)(2) is granted.

Claims Under Labor Law §200 and Common Law Negligence Claims

Section 200(1) of the Labor Law codifies an owner's or general contractor's common-law duty of care to provide construction site workers with a safe place to work (*Perrino v. Entergy Nuclear Indian Point 3, LLC*, 48 A.D.3d 229, 230, 850 N.Y.S.2d 428 [2008]). Claims for personal injury under the statute and the common law fall into two broad categories: (1) those arising from an alleged defect or dangerous condition existing on the premises and (2) those arising from the manner in which the work was performed (*see Cook v. Orchard Park Estates, Inc.*, 73 A.D.3d 1263, 1264 [2010]).

Where the injury was caused by the manner and means of the work, including the equipment used, the owner or general contractor is liable if it actually exercised supervisory control over the injury-producing work (*Foley v. Consolidated Edison Co. of N.Y., Inc.*, 84 A.D.3d 476, 477, 923 N.Y.S.2d 57 [2011]). Where the accident was caused by a defective premises condition, rather than the method or manner in which work was performed, liability depends on whether the

owner or contractor created or had actual or constructive notice of the hazardous condition (*See Bayo v. 626 Sutter Ave. Assoc., LLC*, 106 A.D.3d 648, 648, 966 N.Y.S.2d 390 [1st Dep't., 2013]).

Defendants have established that they did not exercise any supervisory control over the work being performed by the plaintiff, through the submission of the uncontroverted testimony of Pristine and Hoffman employees, Mr. Arbiv and Mr. Ruiz. Mr. Arbiv testified that his responsibilities included general oversight, but that he had no role in controlling Pristine's work methods or in instructing its employees. However, general oversight of a site is insufficient to impose liability (*Quiroz v Wells Reit-222 E. 41st St., LLC*, 128 AD3d 442, 442 [1st Dept 2015]). Plaintiff's testimony also confirms that he was hired by Pristine to work on the Hoffman construction site and never received any work assignments or instructions from anyone other than Pristine's foreman, Mr. Ruiz.

Additionally, defendants made a prima facie showing that it lacked notice of the condition. "[A] defendant is charged with constructive notice of a defective condition when the condition is visible, apparent, and exists for a sufficient length of time prior to the happening of an accident to permit the defendant to discover and remedy it" (*Lopez v Dagan*, 98 AD3d 436, 438 [1st Dep't., 2012]). Mr. Arbiv testified that he implemented specific safety procedures to maintain cleanliness on the jobsite. Specifically, subcontractors were instructed to stockpile debris off to the side, away from work areas, and laborers would then collect and place into bins. Mr. Arbiv and Mr. Ruiz walked the site multiple times a day to ensure cleanliness and that procedures were being followed. Defendants also present evidence of when the sixth-floor hallway was last inspected before plaintiff's accident. Mr. Arbiv further stated that he personally inspected the sixth-floor hallway approximately thirty minutes before the plaintiff's alleged accident occurred and observed no debris, garbage or tripping hazards (NYSCEF Doc. 91). Mr. Ruiz further testified that the hallway was in perfectly clean condition approximately five minutes before he left for lunch, and that plaintiff's accident occurred shortly thereafter, during his absence (NYSCEF Doc. 92).

The same argument applies to the notice argument under the common law negligence claim.

Based on the foregoing, defendants' motion in relation to the §200 and common law negligence claims is granted as defendants did not exercise supervisory control over plaintiff's work nor did defendants have actual or constructive knowledge of the alleged dangerous condition. Therefore, those claims are dismissed.

Claims for contractual indemnification and breach of contract:

Defendants argue that in the event any of plaintiff's claims against defendants are permitted to stand, defendants are entitled to summary judgment on their third-party claim for contractual indemnification and breach of contract for failure to procure insurance against third-party defendant, Pristine. In their opposition, Pristine argues that these claims are premature as the issue of liability under plaintiff's Labor Law §241(6) claim has not been determined at this time.

AB and Pristine entered into a subcontract agreement on January 2, 2020, which outlined Pristine's scope of work and included an indemnification provision (NYSCEF Doc. 76).

Indemnification provision:

"Subcontractor will indemnify, defend and hold harmless Contractor, Owner, and their respective directors, officers, members, shareholders, employees, agents and other representatives, against and from any and all losses and damages (including reasonable attorneys' fees and expenses) resulting from claims for (i) personal injury or death of persons caused by Subcontractor's acts or omissions...For purposes of this paragraph, all references to Subcontractor include Subcontractor's sub-subcontractors, if any."

According to the above cited provision, the trigger event for indemnification is whether injury was caused by Pristine's acts or omissions. Pristine does not argue that this provision does not exist, only that defendants' claims are premature. The Court finds there is an issue of fact as to whether plaintiff's accident was caused by Pristine's acts or omissions. Therefore, defendants' motion for indemnification is conditionally granted to the extent that if plaintiff's accident is found to be caused by Pristine's acts or omissions, in which case, Pristine will be required to indemnify defendants.

The Subcontract Agreement also explicitly required Pristine to procure commercial general liability insurance naming Hoffman and AB as additional insured. Section 6A of the agreement provides:

Insurance procurement provision:

"Insurance by Subcontractor. In connection with the Work, Subcontractor will obtain and maintain Worker's Compensation Insurance as required by law, and Commercial General Liability Insurance, Comprehensive Automobile Liability, and Umbrella Liability Insurance, all with carriers acceptable to Contractor and in amounts and upon terms appropriate for the Work as reasonably established or

approved by Contractor, together with a project specific builder's risk policy covering the Work on an all-risk basis (at full replacement value), naming Contractor and Owner as additional insureds. All such insurance policies must be primary and non-contributory, with no exclusions or limitations applicable to the Work under this Subcontract. Upon request, Subcontractor will promptly provide certificates of such insurance to Contractor and/or copies of any such insurance policies and/or endorsements."

Defendants argue that while Pristine procured a policy and named the defendants as insured, the policy failed to satisfy the requirements of the Subcontract Agreement because it excluded coverage for bodily injury claims, rendering the coverage effectively meaningless. Insurance coverage is deemed illusory if the exclusion, when enforced, swallows the whole policy and defeats all of the coverage afforded under the policy's provision (*Lend Lease (US) Const. LMB Inc. v. Zurich Am. Ins. Co.*, 28 N.Y.3d 675, 684 [2017]). The insurance procurement provision states that coverage must be provided "with no exclusions or limitations applicable to the work under the contract." Pristine's work, as outlined in the Subcontract Agreement, includes installing sheetrock, spackling, sanding, painting, and addressing touch-up and punch list items. Pristine's insurance carrier denied tender, citing the exclusion for bodily injury to an employee of the insured arising out of and in the course of employment. The Court finds that this exclusion is illusory and therefore unenforceable, as it effectively swallows the policy and renders the coverage meaningless. The policy is intended to provide coverage to employees engaged in drywall and other construction work who may suffer personal injury while performing such work, and the exclusion makes that coverage impossible.

Additionally, because the Subcontract Agreement was executed January 2, 2020, defendants are still within the six-year statute of limitations to bring a claim for breach of contract, as the Motion was filed November 22, 2024. Accordingly, defendants' motion for summary judgment on breach of contract is granted.

Accordingly, it is hereby:

ORDERED, that the branch of defendants' motion seeking summary judgment dismissing the Labor Law §240(1) claim is granted as unopposed; and it is further,

ORDERED, that the branch of defendants' motion seeking summary judgment dismissing the Labor law §241(6) claim predicated on sections 23-2.1(a) 23-2.1(b), and 23-1.7(e)(2) is granted and it is further,

ORDERED, that the branch of defendants' motion seeking summary judgment dismissing the Labor law §241(6) claim predicated on sections 23-1.7(e)(1) is denied; and it is further,

ORDERED, that the branch of defendant's motion seeking summary judgment dismissing the Labor law §200 claim and common law negligence is granted; and it is further,

ORDERED, that the branch of defendants' motion seeking summary judgment on contractual indemnification is conditionally granted to the extent that if plaintiff's accident is found to be caused by Pristine's acts or omissions, Pristine shall be required to indemnify defendants, and it is further,

ORDERED, that the branch of defendants' motion seeking summary judgment on breach of contract for failure to procure insurance is granted; and it is further,

ORDERED that the Clerk of the Court is directed to enter partial judgment; accordingly, and it is further,

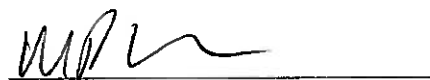
ORDERED that all parties shall appear for a pre-trial conference on September 15, 2025, at 9:30 am in Room 405; and it is further,

ORDERED, that defendants shall serve a copy of this Order with Notice of Entry upon Plaintiff within thirty (30) days of the upload of this Order in NYSCEF.

This constitutes the Decision and Order of this Court.

Dated: 8/14/25

Bronx, New York



Hon. Matthew Parker-Raso, J.S.C.