Munoz v Jamaica Bldrs. LLC
2025 NY Slip Op 35301(U)
July 11, 2025
Supreme Court, Queens County
Docket Number: Index No. 717477/2020
Judge: Chereé A. Buggs

Short Form Order

NEW YORK SUPREME COURT-QUEENS COUNTY

Present: **HONORABLE CHEREÉ A. BUGGS**
Justice

IAS PART 30

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BONIFACIO MUNOZ,

Plaintiff,

-against-

JAMAICA BUILDERS LLC, 153 JAMAICA HOUSING DEVELOPMENT FUND CORPORATION, THE CITY OF NEW YORK, NEW YORK CITY DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT, NEW DESTINY HOUSING CORPORATION, JAMAICA OWNER LLC, BFC PARTNERS, L.P., JAMAICA RETAIL OWNER LLC, SMJ DEVELOPMENT LLC, 153 JAMAICA DEVELOPER LLC, BFC PARTNERS DEVELOPMENT LLC, SMJ JAMAICA LLC, BFC ASSOCIATES, LLC, RISE DEVELOPMENT PARTNERS, LLC, RISE CONCRETE LLC, and CONCRETE SUPERSTRUCTURES, INC.,

Defendants.

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RISE DEVELOPMENT PARTNERS, LLC and RISE CONCRETE LLC.,

Third-Party Plaintiffs

-against-

ARO CONSTRUCTION GROUP, INC..

Third-Party Defendant

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Index No.: 717477/2020

Motion Date: 4/28/2025

Motion Cal. No.:26

Motion Sequence No.: 9

The following e-file papers numbered 391-414, 450-454, 459-461, 510-515 submitted and considered on this motion by Plaintiff Bonifacio Munoz (hereinafter "Munoz"), seeking an order pursuant to CPLR 3212, awarding Munoz partial summary judgment on the issue of liability under Labor Law §§ 240(1) and 241(6), and on his claims for negligence and the violation of Labor Law § 200.

The motion is **denied** without prejudice.

Motion Sequence 9	Papers Numbered
Notice of Motion-Affirmation in Support-Affidavits-Exhibits.....	EF 391-413
Affirmation in Opposition-Affidavits-Exhibits.....	EF 414, 450-454, 459-461
Reply Affirmation-Affidavits-Exhibits.....	EF 510-515

Relevant Facts and Procedural History

This action arises from an incident that occurred on July 17, 2019, during the course of plaintiff Bonifacio Munoz's employment as a construction laborer at a multi-phase affordable housing development project located at 153-19 Jamaica Avenue in Queens, New York. The project was owned and developed by various entities, hereinafter referred to collectively as the "Rise Defendants", including Rise Development Partners LLC, Rise Concrete LLC, Jamaica Builders LLC, Jamaica Owner LLC, Jamaica Retail Owner LLC, 153 Jamaica Housing Development Fund Corporation, the City of New York and the Department of Housing Preservation and Development. The general contractor on the project was ARO Construction Group Inc. (hereinafter "ARO"), who is the third-party defendant in this action.

Munoz alleges that while he was walking across a rebar grid within a foundation pit at the job site, he stepped onto an unsecured rebar which shifted beneath him, causing him to fall downward into the grid. According to his testimony, his right leg fell through an opening in the rebar mat, causing him to hang partially suspended, with his leg descending to the area beneath the grid while the rest of his body remained atop it. He claims that the opening into which he fell was large enough for his entire body to have passed through, but that his fall was arrested because his upper body struck other rebar, leaving him trapped. Munoz states that the rebar mat lacked any protective planking or fall protection, and that his work required him to traverse that area while carrying reinforcing bars.

Munoz moved for partial summary judgment on liability under Labor Law §§ 240(1), 241(6), and 200, as well as for common law negligence. In support of the motion, Munoz submitted his own deposition testimony, his 50-h hearing transcript, a sworn affidavit with accompanying photographs showing body measurements taken post-incident, accident site photographs, Building Department violations issued after the accident, deposition testimony from City Building Inspector Azad, and an expert affidavit from Anthony Corrado (hereinafter "Corrado"), a construction safety expert. Munoz maintains that the accident was caused by a statutory violation of the Labor Law due to the absence of required safety protections, and that there is no triable issue of fact as to liability.

Munoz's expert, Corrado, opined that the rebar grid constituted an elevated work platform and that the opening through which Munoz fell was large enough to permit a full body fall. Corrado concluded that the rebar should have been covered with plywood or similar fall protection, and

that the failure to secure the grid and the absence of protective measures were a proximate cause of the accident. He also reviewed site photos and testimony and concluded that the hazard was open and obvious, and that safety protocols had not been followed in accordance with applicable industry and regulatory standards.

Rise Defendants and ARO opposed the motion, arguing that the rebar grid did not constitute an elevation-related hazard under Labor Law § 240(1), and that the opening through which Munoz fell was too small to trigger statutory protection. ARO pointed to deposition testimony from Munoz where he described his body as becoming stuck in the rebar, and emphasized that the Munoz's leg went through the grid only to just above the knee. ARO and the Rise Defendants challenged the credibility and foundation of Munoz's affidavit concerning his body measurements and the dimensions of the opening, arguing that it was self-serving and lacked evidentiary value. They argued that the person assisting with the measuring was unidentified and did not submit an affidavit, and that there was no record establishing the Munoz had been the same size at the time of the incident.

In support of their opposition, ARO relied on the deposition of Carlos Beltran (hereinafter "Beltran"), an ARO employee who was working on site and observed Munoz on the day of the accident. Beltran testified that the rebar grid openings in the area where Munoz fell were approximately three feet above the dirt, and that he observed Munoz moving bars across the top level of rebar. Beltran stated that the openings were three feet wide in the center and the top level was uniform across the grid. Rise Defendants also submitted two affidavits from witnesses, Ivy Hernandez (hereinafter "Hernandez") and Arturo Garay (hereinafter "Garay"), both of whom were alleged to be Munoz's coworkers and eyewitnesses to the accident. Hernandez stated that she saw Munoz back up and drop one leg through a gap in the grid. Garay stated that Munoz stepped backward and bypassed the rebar support mat, causing his leg to fall into the opening. Both witnesses claimed to have observed the incident as it happened.

Munoz responded to these affidavits in his reply by arguing that neither Hernandez nor Garay were disclosed during discovery, despite specific demands for witness identification made in April 2021. Munoz submitted defendants' discovery responses from October 2021 through January 2022, all of which named only Vincent Cienfuegos as a witness. Munoz emphasized that the Hernandez and Garay affidavits were dated July 2023, two months prior to the filing of the Note of Issue, and that no excuse was offered for the failure to disclose them. Munoz argued that this omission constituted a willful violation of CPLR 3101(h) and that the affidavits should be precluded.

In further opposition to the motion, the Rise Defendants and ARO submitted the affidavit of their expert, Mr. Interian (hereinafter "Interian"), who opined that the opening in the rebar grid was less than 12 inches in any direction, and therefore too small to permit a full body fall. He based his opinion on photographs taken at the site, though he did not identify the specific images used or demonstrate any expertise in photogrammetry. Rise Defendants relied on this opinion to argue that no statutory violation occurred because the size of the opening did not meet the threshold for a hazardous condition under the relevant Labor Law provisions or Industrial Code regulations.

They further asserted that the rebar grid was integral to the work being performed and that any risk presented by the grid was inherent in the task, and not a condition warranting liability under Labor Law § 200 or the common law.

Munoz countered that Interian's analysis was speculative and lacked foundation, noting that Interian never identified specific photographs or verified the location of the rebar opening depicted. Munoz argued that because Interian lacked qualifications in photogrammetry, his opinions about measurements based on photos were inadmissible. Munoz reiterated that his own testimony and affidavit established the dimensions of the opening and the movement of the unsecured rebar, which had expanded at the time of the incident. Munoz affirmed that the square opening through which he fell was at least two feet wide and became even larger when the rebar shifted. He maintained that his fall was only partially arrested by other rebar elements, not by the smallness of the opening.

As to the Labor Law § 241(6) claim, Munoz alleged violations of three Industrial Code sections: § 23-1.7(b)(1), relating to hazardous openings; § 23-1.22(c)(1), relating to work platforms; and § 23-2.2, relating to the proper securing of forms and shores. Munoz contended that the rebar constituted a hazardous opening because the area where he fell was large enough to allow a person to fall through, especially after the rebar shifted. He further argued that the rebar mat functioned as an elevated platform which workers were required to traverse, and therefore required protective planking. On the third provision, Munoz argued that the rebar cage was a form for concrete and was improperly secured, thus violating § 23-2.2.

Rise Defendants argued in opposition that the Industrial Code provisions cited were inapplicable. They claimed the rebar grid was not a hazardous opening because it was too small for a body to fall through, was not a platform as contemplated by § 23-1.22, and that rebar did not constitute a form or support under § 23-2.2. Munoz refuted those points in reply by referencing the Appellate Division's decision in *Marte v Tishman Constr. Corp.*, 223 AD3d 527, 528 [1st Dept 2024], where a rebar mat was held to potentially qualify as a platform under § 23-1.22. Munoz argued that the holding supports the imposition of liability where workers are required to walk across rebar grids. He also relied on inspection records and violations from the NYC Department of Buildings, which cited the condition as unsafe and lacking plywood covers or walkways.

Finally, regarding the Labor Law § 200 and common law negligence claims, Munoz argued that the unsafe walking surface created by the unsecured rebar grid was a dangerous condition that Rise Defendants knew or should have known about. He emphasized that the site lacked adequate safeguards and that the failure to secure the grid constituted negligence. The Building Department violations were also cited in support of this argument. Rise Defendants countered that the risk was inherent in the work and that no duty was breached.

The motion was fully submitted with Munoz's two affirmations, two rounds of opposition from the defendants and ARO, and two reply affirmations by Munoz, along with extensive exhibits, depositions, expert reports, photographs, inspection records, and affidavits. The central factual disputes concern whether the opening into which Munoz fell was large enough to pose an

elevation-related hazard, whether the rebar grid was secured or loose, whether Munoz's body could have passed fully through the opening, and whether the conditions violated the Labor Law provisions or constituted actionable negligence.

Discussion

New York Labor Law §200 states:

> 1. All places to which this chapter applies shall be so constructed, equipped, arranged, operated and conducted as to provide reasonable and adequate protection to the lives, health and safety of all persons employed therein or lawfully frequenting such places. All machinery, equipment, and devices in such places shall be so placed, operated, guarded, and lighted as to provide reasonable and adequate protection to all such persons. The board may make rules to carry into effect the provisions of this section....

New York Labor Law §240 (1) states:

> 1. All contractors and owners and their agents, except owners of one and two-family dwellings who contract for but do not direct or control the work, in the erection, demolition, repairing, altering, painting, cleaning or pointing of a building or structure shall furnish or erect, or cause to be furnished or erected for the performance of such labor, scaffolding, hoists, stays, ladders, slings, hangers, blocks, pulleys, braces, irons, ropes, and other devices which shall be so constructed, placed and operated as to give proper protection to a person so employed...

New York Labor Law §241 (6) states:

> 6. All areas in which construction, excavation or demolition work is being performed shall be so constructed, shored, equipped, guarded, arranged, operated and conducted as to provide reasonable and adequate protection and safety to the persons employed therein or lawfully frequenting such places. The commissioner may make rules to carry into effect the provisions of this subdivision, and the owners and contractors and their agents for such work, except owners of one and two-family dwellings who contract for but do not direct or control the work, shall comply therewith.

12 NYCRR § 23-1.7(b)(1) states:

(1) Hazardous openings.

(i) Every hazardous opening into which a person may step or fall shall be guarded by a substantial cover fastened in place or by a safety railing constructed and installed in compliance with this Part (rule).

(ii) Where free access into such an opening is required by work in progress, a barrier or safety railing constructed and installed in compliance with this Part (rule) shall guard such opening and the means of free access to the opening shall be a substantial gate. Such gate shall swing in a direction away from the opening and shall be kept latched except for entry and exit.

(iii) Where employees are required to work close to the edge of such an opening, such employees shall be protected as follows:

(a) Two-inch planking, full size, or material of equivalent strength installed not more than one floor or 15 feet, whichever is less, beneath the opening; or

(b) An approved life net installed not more than five feet beneath the opening; or

(c) An approved safety belt with attached lifeline which is properly secured to a substantial fixed anchorage.

12 NYCRR § 23-1.22(c)(1) states:

(1) Any platform used as a working area or used for the unloading of wheelbarrows, power buggies, hand carts or hand trucks shall be provided with a floor of planking at least two inches thick full size, exterior grade plywood at least three-quarters inch thick or metal of equivalent strength. Platforms used for motor trucks or heavier vehicles shall be provided with floors of planking at least three inches thick full size or metal of equivalent strength.

12 NYCRR § 23-2.2 states:

(a) General requirements. Forms, shores and reshores shall be structurally safe and shall be properly braced or tied together so as to maintain position and shape.

(b) Inspection. Designated persons shall continuously inspect the stability of all forms, shores and reshores including all braces and other supports during the placing of concrete. Any unsafe condition

shall be remedied immediately…

CPLR 3212 provides:

> (a) Time; kind of action. Any party may move for summary judgment in any action, after issue has been joined; provided however, that the court may set a date after which no such motion may be made, such date being no earlier than thirty days after the filing of the note of issue. If no such date is set by the court, such motion shall be made no later than one hundred twenty days after the filing of the note of issue, except with leave of court on good cause shown.
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> (b) Supporting proof; grounds; relief to either party. A motion for summary judgment shall be supported by affidavit, by a copy of the pleadings and by other available proof, such as depositions and written admissions. The affidavit shall be by a person having knowledge of the facts; it shall recite all the material facts; and it shall show that there is no defense to the cause of action or that the cause of action or defense has no merit. Where an expert affidavit is submitted in support of, or opposition to, a motion for summary judgment, the court shall not decline to consider the affidavit because an expert exchange pursuant to subparagraph (i) of paragraph (1) of subdivision (d) of section 3101 was not furnished prior to the submission of the affidavit. The motion shall be granted if, upon all the papers and proof submitted, the cause of action or defense shall be established sufficiently to warrant the court as a matter of law in directing judgment in favor of any party. Except as provided in subdivision (c) of this rule the motion shall be denied if any party shall show facts sufficient to require a trial of any issue of fact. If it shall appear that any party other than the moving party is entitled to a summary judgment, the court may grant such judgment without the necessity of a cross-motion.

The proponent of a summary judgment motion must make a prima facie showing of entitlement to judgment as a matter of law, tendering admissible evidence to eliminate any material issues of fact from the case. (*See Alvarez v Prospect Hospital*, 68 NY2d 320 [1986]; *Winegrad v New York Univ. Med. Ctr.*, 64 NY2d 851 [1985].) "Once a prima facie showing has been made, however, the burden shifts to the party opposing the motion for summary judgment to produce evidentiary proof in admissible form, sufficient to establish the existence of material issues of fact which require a trial of the action" (*see Alvarez v Prospect Hosp.*, 68 NY2d 320, 324 [1986]; citing *Zuckerman v City of New York*, 49 NY2d at 562 [1980]).

First, with regards to Munoz's Labor Law § 240(1) claims, if the opening of rebar grid were too small for a person's body to fall through, the opening "did not present an elevation-related hazard to which the protective devices enumerated [in Labor Law § 240(1)] are designed to apply" (*see Johnson v Lend Lease Constr. LMB, Inc.*, 164 AD3d 1222, 1222 [2d Dept 2018]; citing *Avila v Plaza Const. Corp.*, 73 AD3d 670, 671 [2d Dept 2010]; *Rice v Bd. of Educ. of City of New York*, 302 AD2d 578, 580 [2d Dept 2003]). Upon reviewing the records, including multiple witness testimonies and expert testimonies, this Court finds that Rise Defendants raised a triable issue of fact regarding whether the opening of the rebar grid was large enough for Munoz to fall through. Despite Munoz's contentions that Interian, Rise Defendants' expert, lacks the qualifications in photogrammetry, and hence Interian's opinion regarding the size of the opening lacks credibility, Munoz's own expert Corrado also did not testify that he possesses the qualifications in photogrammetry, which is required to identify the size of objects in photographs. Instead, Corrado's opinion that the opening was "approximately two feet wide, with some sides being longer, creating an opening large enough for Mr. Munoz's body to fall through" seems to be based on Munoz's testimony (while Corrado did consider Munoz's body measurement, there is no indication that Corrado's opinion on the size of the opening was based on evidence other than Munoz's testimony). Hence, the branch of Munoz's Labor Law § 240(1) claims motion is denied without prejudice.

With regards to Munoz's Labor Law § 200 claims, "Labor Law § 200 is a codification of the common-law duty to provide workers with a safe work environment" (*see Robles v Taconic Mgt. Co.*, LLC, 173 AD3d 1089, 1092 [2d Dept 2019]; citing *Azad v 270 5th Realty Corp.*, 46 AD3d 728, 730 [2d Dept 2007]; Brown v Brause Plaza, LLC, 19 AD3d 626, 628 [2d Dept 2005]; *see also Mushkudiani v Racanelli Constr. Group, Inc.*, 219 AD3d 613, 616 [2d Dept 2023]). "Cases involving Labor Law § 200 fall into two broad categories: namely, those where workers are injured as a result of dangerous or defective premises conditions at a worksite, and those involving the manner in which the work is performed" (*see Id* at 1092; citing *Ortega v Puccia*, 57 AD3d 54, 61 [2d Dept 2008]; see also *Mushkudiani v Racanelli Constr. Group, Inc.*, 219 AD3d 613, 616 [2d Dept 2023]). "Where a premises condition is at issue, property owners may be held liable for a violation of Labor Law § 200 if the owner either created the dangerous condition that caused the accident or had actual or constructive notice of the dangerous condition that caused the accident" (*see Toalongo v Almarwa Ctr., Inc.*, 202 AD3d 1128, 1131 [2d Dept 2022]; citing *Ortega v Puccia*, 57 AD3d 54, 61 [2d Dept 2008]). By contrast, where a claim arises out of alleged dangers or defects in the means and methods of the work, an owner may be held liable for common-law negligence or a violation of Labor Law § 200 only if he or she "had the authority to supervise or control the performance of the work" (*see Medina-Arana v Henry St. Prop. Holdings, LLC*, 186 AD3d 1666, 1668 [2d Dept 2020]; citing *Ortega v Puccia*, 57 AD3d at 61 [2d Dept 2008]).

In the case at hand, this Court finds that conflicting expert testimonies precludes summary judgment on Munoz's Labor Law § 200 claims. Munoz's expert, Carrado, stated that "[t]he presence of the unsecured and unstable rebar mat created a dangerous condition of the premises that exposed workers to significant risks of falling and sustaining serious injuries. Defendants knew, or should have known, of the existence of this dangerous condition, which was readily ascertainable. The absence of safe walking/working platforms was evident upon visual inspection

and the unsecured condition of the rebar in the accident location should have been discovered via a timely [inspection] of the installation work in that area before it was open to workers to traverse upon". By contrast, Rise Defendants' expert, Interian, testified that "…ARO was hired to install rebar. To install rebar, workers would be expected to have to walk and work around installed rebar in order to successfully complete their work. It is not feasible to cover every opening in the rebar grid with plywood or other means during the rebar installation as it would impede the ongoing work being performed by ARO and close proximity to the incident area. Furthermore, the openings created by the intersecting rebars were easily observable by Plaintiff through the course of his work at the site." These conflicting expert testimonies raises triable issue of facts as to whether the opening of the rebar grid constitutes a dangerous condition, as well as whether the means and methods of the work is dangerous or defective, or that it is customary for workers to walk on the rebars in order to complete such a project. Hence, the branch of Munoz's Labor Law § 200 claims motion is denied without prejudice.

Next, 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]" (see *Bazdaric v Almah Partners LLC*, 41 NY3d 310, 317 [2024]; citing *Ross v Curtis-Palmer Hydro-Electric Co.*, 81 NY2d 501-502 [1993]*; see also Toussaint v Port Auth. of New York and New Jersey*, 38 NY3d 89, 93 [2022]). Labor Law §241(6) "requires owners and contractors to provide reasonable and adequate protection and safety for workers and to comply with the specific safety rules and regulations promulgated by the Commissioner of the Department of Labor" (*see Toussaint v Port Auth. of New York and New Jersey*, 38 NY3d 89, 93 [2022]; citing *Ross v Curtis-Palmer Hydro-Electric Co.*, 81 NY2d 501-502 [1993]; *see also St. Louis v Town of N. Elba*, 16 NY3d 411, 413 [2011]). "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" *(see Bazdaric v Almah Partners LLC*, 41 NY3d 310, 317 [2024]; citing *Rizzuto v L.A. Wenger Contr. Co., Inc.*, 91 NY2d 343, 350 [1998]; *Toussaint v Port Auth. of New York and New Jersey*, 38 NY3d 89, 94 [2022]; *Nostrom v A.W. Chesterton Co.*, 15 NY3d 502, 507 [2010]).

Munoz allege three Industrial Code violations Industrial Code § 23-1.7(b)(1), Industrial Code § 23-1.22(c) and Industrial Code § 23-2.2. First, "Industrial Code § 23–1.7(b)(1)(i) only applies to openings large enough for a person to fall completely through…" (*see Johnson v Lend Lease Constr. LMB, Inc.*, 164 AD3d 1222, 1223 [2d Dept 2018]; citing *Vitale v Astoria Energy II, LLC*, 138 AD3d 981, 983 [2d Dept 2016]; *DeLiso v State*, 69 AD3d 786, 787 [2d Dept 2010]; *see also Marte v Tishman Constr. Corp.*, 223 AD3d 527, 529 [1st Dept 2024]). As stated above, Rise Defendants raised triable issue of fact regarding whether the opening of the rebars is big enough for Munoz to fit through, hence, the branch of Munoz's Labor Law § 241 (6) motion based on Industrial Code § 23-1.7(b)(1) is denied without prejudice.

Next, Munoz's claim based on Industrial Code § 23-1.22(c) is without merit, as there exists triable issue of fact as to whether the rebar grid qualified as a platform used to transport pedestrian traffic (*see Marte v Tishman Constr. Corp.*, 223 AD3d 527 [1st Dept 2024]).

With regards to Munoz's claim based on Industrial Code § 23-2.2, in *Morris v Pavarini Const*., 9 NY3d 47, 50 [2007], the Court of Appeals ruled that it is premature for the appellate term to grant summary judgment due to insufficient records, "both as to the nature of the object that caused the injury and the opinions of those expert in the construction of concrete walls as to whether the words of the regulation can sensibly be applied to anything but completed forms". In *Giordano v Forest City Ratner Companies*, 43 AD3d 1106, 1108 [2d Dept 2007], the Court ruled that absent expert opinion on the subject of whether "the Industrial Code rule could sensibly be applied to anything but completed forms", the "proponents of the motion, did not establish their prima facie entitlement to summary judgment dismissing the complaint to the extent the complaint relied on an alleged violation of § 23–2.2(a)". Further, in *Andres-Valdez v 1818 Nadlan LLC et al*, Sup Ct, New York County, September 27, Rosado J., Index Number 156787/2018, the case cited by Munoz, the Court ruled that "Neither party has provided any expert affidavits as to the applicability or inapplicability of 12 NYCRR § 23-2.2 to the facts of this case, and whether rebar may be considered a form, shore, or reshore. Therefore, Defendants in that case have not met their prima facie burden of showing entitlement to dismissal of Plaintiff's Labor Law 241(6) claim predicated on 12 NYCRR § 23-2.2".

Unlike the cases cited above, in the case at hand, experts from both parties have given their expert opinion on whether rebar may be considered a form, shore, or reshore. Interian testified that 12 NYCRR § 23-2.2 "is not applicable to the incident in questions as the incident did not involve any concrete work involving forms, shores, reshores, bracing, etc. The accident occurred on a reinforcing rebar mat which is neither forms, shores, reshores, or bracing. Reinforcing rebar is reinforcement provided in concrete for strength. The rebar does not act as a "form" and does not "support" concrete". On the other hand, Corrado testified that "…The unsecured and inadequately stabilized rebar grid created an unstable and hazardous working surface for workers, posing a significant risk of collapse, shifting, or dislodgement of rebar pieces. Industrial Code § 23-2.2(a) further requires that forms, shores and reshores shall be structurally safe and shall be properly braced or tied together so as to maintain position and shape. Here, the rebar grid was a form used in connection with concrete work and pouring of the building's foundation". This Court finds that these conflicting expert testimonies raises triable issue of fact as to whether the rebars or the rebar grid in the case at hand constitutes "forms, shore or reshore" within the meaning of 12 NYCRR § 23-2.2. Accordingly, it is hereby

ORDERED, that Munoz's motion seeking for partial summary judgment in **denied** without prejudice.

Dated: July 11, 2025

Hon. Chereé A. Buggs, JSC