

**Paz v Gina S. Newhouse Qualified Personal Residence
Trust**

2025 NY Slip Op 35568(U)

February 13, 2025

Supreme Court, Queens County

Docket Number: Index No. 700259/2018

Judge: Leonard Livote

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SHORT FORM ORDER

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NEW YORK STATE SUPREME COURT - QUEENS COUNTY

Present: HONORABLE Leonard Livote

Supreme Court Justice

IAS PART 33

-----X
 LUIS DIAZ PAZ,
 Plaintiff,

Index No: 700259/2018

-against-

GINA S. NEWHOUSE QUALIFIED
 PERSONAL RESIDENCE TRUST,
 AND D. REIS CONTRACTING CORP.,
 Defendants.

Motion Date: 03/26/2024
 (Seq. 4) & 10/01/2024
 (Seq. 5)

Seq. No: 4 & 5

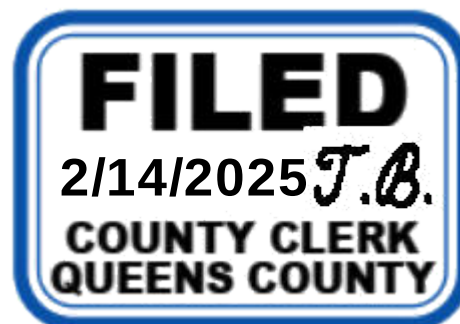
-----X
 D. REIS CONTRACTING CORP.,
 Third-Party Plaintiff,

-against-

WORLD CLASS DEMOLITION
 CORPORATION and WCD SERVICES
 CORP.,

Third-Party Defendants,

-----X



The following papers numbered below read on Motion Sequence 4 by Plaintiff for an Order: (1) striking the answer of Third-Party Defendant WORLD CLASS DEMOLITION CORPORATION for failure to produce a witness for an examination before trial; and (2) for such other and further relief as the Court deems proper and just.

The following papers numbered below read on Motion Sequence 5 by Third-Party Plaintiffs/Defendant D. REIS CONTRACTING CORP for an Order: (1) Pursuant to 22 NYCRR 202.21(e), vacating Plaintiff's Note of Issue and Certificate of Readiness and striking this matter from the trial calendar as discovery in this matter has not yet been fully completed; or alternatively; (2)

staying this matter until the outstanding discovery can be completed and non-party deposition(s) can take place; and (3) Pursuant to CPLR §§ 3101 and 3124, compelling Third-Party Defendant WCD SERVICES CORP to respond to outstanding documentary disclosure by a date certain; and (4) setting this matter down for a Court conference on a date certain to address outstanding discovery; and (5) Extending D. REIS CONTRACTING CORP'S time to file dispositive motions until 120 days after completion of all outstanding discovery; and; (6) for such other and further relief as this Court deems just and proper.

PAPERS
NUMBERED

Notice of Motion, Affirmation, Affidavits and Exhibits.....	99-123
Cross Motion, Affirmation, Affidavits and Exhibits.....	
Answering Affirmations, Affidavits And Exhibits.....	129-139
Reply Affirmations, Affidavits And Exhibits.....	
Other	

Upon the foregoing papers, the Motion Sequence 4 & 5 are determined as follows:

This action was commenced by Plaintiff LUIS DIAZ PAZ to recover for serious personal injuries sustained from a fall on May 10, 2017, during his employment. Plaintiff filed the summons and complaint on September 13, 2017. Defendant D. REIS CONTRACTING CORP. (Third-Party Plaintiffs/Defendant Reis) filed an answer on October 27, 2017, and Defendant GINA S. NEWHOUSE QUALIFIED PERSONAL RESIDENCE TRUST (Defendant Newhouse) filed an answer on January 11, 2018.

Third-Party Plaintiffs/Defendant Reis initiated a third-party action against Third-Party Defendant WORLD CLASS DEMOLITION CORPORATION (WORLD CLASS) and WCD SERVICES CORP (WCD SERVICES) on

September 1, 2018. Both WORLD CLASS and WCD SERVICES answered the third-party complaint on October 21, 2019.

A conference on September 11, 2023, resulted in a Court Order scheduling WORLD CLASS' deposition for October 4, 2023. However, WORLD CLASS failed to produce a witness, leading to an indefinite adjournment. To date, WORLD CLASS has not complied with court-ordered discovery, prompting Plaintiffs to move (Motion Sequence 4) to strike WORLD CLASS' answer.

On July 24, 2024, Maureizio Bordone, Vice President of WCD SERVICES, was deposed and revealed previously undisclosed project and employment files. He also identified Christian Tenezaca as a knowledgeable person about the accident, with WCD SERVICES holding his contact information.

Plaintiffs filed a Note of Issue and Certificate of Readiness on July 26, 2024 (NYSCEF Doc. No. 124). On August 13, 2024, Third-Party Plaintiffs/Defendant Reis filed Post-Deposition Demands and a "good-faith" letter for discovery from WCD SERVICES, which had not responded to several previous requests. Third-Party Plaintiffs/Defendant Reis also requested the withdrawal of the premature Note of Issue but received no response from Plaintiff's counsel.

Now, Third-Party Plaintiffs/Defendant Reis moves this Court (Motion Sequence 5) to vacate the Note of Issue, dated July 26, 2024 (NYSCEF Doc. No. 124), due to outstanding discovery issues. Despite multiple requests, including post-deposition demands, Plaintiff has failed to respond adequately. Therefore, Third-Party Plaintiffs/Defendant Reis moves (Motion Sequence 5) to vacate the Note of Issue to ensure all relevant discovery is completed.

The branch of the motion to strike Defendant WORLD CLASS' answer (Motion Sequence 4) is denied. The motion (Motion Sequence 5) to vacate the Note of Issue and Certificate of Readiness, dated July 26, 2024 (NYSCEF Doc. No. 124), is granted on grounds that the movant has established there is outstanding discovery. A conference shall be held to schedule outstanding discovery and set a new date to file NOI.

Accordingly, it is hereby

ORDERED, that the Note of Issue, dated July 26, 2024 (NYSCEF Doc. No. 125) is vacated; and it is further

ORDERED, that the parties shall appear for a conference to be held via Microsoft TEAMS on March 11, 2025 at 11:30 a.m.

Any other or further relief not specifically addressed is denied.

This constitutes the Order of the Court.

Dated: February 13, 2025



Leonard Livote, J.S.C.

