At an IAS Term, Part 66 of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse, at 360 Adams Street, Brooklyn, New York, on the 7th day of January, 2026.

PRESENT:

HON. RICHARD VELASQUEZ,
Justice.

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EFRAIN SANTANA,

Plaintiff,

-against-

Index No.: 525233/2019

BIM CLEANING SERVICES, INC., ADASS INC., TRIANGLE 613, LLC and QUALITY FACITLTY SOLUTIONS,

Defendants.

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ADASS INC. and TRIANGLE 613 LLC,

Third-Party Plaintiffs

-against-

QUALITY FACILITY SOLUTIONS,

Third-Party Defendant.

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Decision and Order

The following e-filed papers read herein:	NYSCEF Doc Nos.:
Notice of Motion/Order to Show Cause/ Petition/Cross Motion and Affidavits (Affirmations) Annexed	321-340, 346-351, 376-381
Opposing Affidavits (Affirmations)	356-357, 374-375, 378-381, 388-390,391-393
Affidavits/ Affirmations in Reply	382-387, 395-400, 401,440

Upon the foregoing papers, defendant/third-party defendant Quality Facility Solutions (QFS) moves, in motion (mot.) sequence (seq.) 30, for an order awarding it summary judgment pursuant to CPLR 3212 dismissing plaintiff Efrain Santana's (plaintiff) complaint as well as defendants/third-party plaintiff's Adass Inc. (Adass) and Triangle 613, LLC's (Triangle) cross-claims and third-party claims against it.

Plaintiff cross-moves, in mot. seq. 31, for leave to amend his complaint pursuant to CPLR 3025(b) in order to plead causes of action against the defendants alleging violations of Labor Law §§ 200, 240(1) and 241(6).

Adass and Triangle cross-move, in mot. seq. 34, for summary judgment on their contractual indemnification claims against QFS.

Background Facts and Procedural History

The instant action arises out of a May 8, 2019 construction site accident that occurred at 1508 Coney Island Avenue, Brooklyn NY (the building or the premises), in which plaintiff allegedly sustained various injuries. Prior to the accident Triangle, which owned the premises, hired Adass to serve as the general contractor on the construction project. In a written agreement dated July 3, 2017, between QFS and defendant BIM Cleaning Services, Inc. (BIM), BIM agreed to provide QFS with "mid-construction laborers" to perform work at QFS's worksites as requested by QFS. This agreement further provided that BIM would provide its services "free from [QFS's] direction and control" and that the relationship between BIM and its employees and QFS was "as an independent contractor, and not of an employee, agent, or representative of [QFS] for any purpose."

In a work order agreement dated October 31, 2018, Adass hired QFS to provide certain laborers for the project for the performance of various tasks including cleaning and clearing construction debris, operating hoists, light duty hauling, and carpentry work. Among other things, this agreement contained an indemnity provision whereby QFS agreed to indemnify Triangle and Adass for injuries "arising from, in connection with or related to" the work and injuries caused by QFS or its subcontractors. In addition, QFS agreed to indemnify Triangle and Adass against lawsuits brought by QFS employees and the employees of QFS's subcontractors.

According to plaintiff's deposition testimony, on the day of the accident, his supervisor Roy Persaud assigned him the task of removing broken-up pieces of concrete and re-bar from a "pit" in the basement of the building. Plaintiff described the pit as being seven to eight feet deep and testified that he got to the bottom of the pit by climbing down exposed rebar. Plaintiff also testified that the pit could also be accessed via a makeshift ramp comprised of a metal and plywood "form" that was ordinarily used in order to mold concrete columns during construction projects. Plaintiff further testified that this ramp was put in place by workers who were employed by Adass and were supervised by Adass's foreman, Max Fong. In addition, plaintiff testified that Mr. Fong gave instructions to his supervisor, Mr. Persaud. According to plaintiff, the accident occurred as he was carrying pieces of broken-up concrete up the ramp. In particular, plaintiff testified that as he was

walking up the ramp it collapsed, which caused him to fall approximately eight feet to the bottom of the pit.[1]

Regarding his employer, plaintiff testified at various points during the course of his two depositions that he was employed by BIM, while at other points he testified that he was employed by QFS. However, plaintiff consistently testified that his paychecks indicated that he was paid by BIM and it is undisputed that the accident was covered under BIM's workers' compensation policy. In addition, plaintiff's bill of particulars identified BIM as his employer. Mr. Persaud testified that he was employed by QFS. However, Mr. Persaud also testified that his paychecks indicated that he was paid by BIM.

In a summons and complaint filed on November 19, 2019, plaintiff commenced an action against BIM under Kings County Index No. 525233/19 alleging that his injuries in the underlying accident were caused by BIM's negligence. On or about June 17, 2020, plaintiff commenced a separate action against Adass and Triangle under Kings County Index No. 510272/20 which alleged that his injuries were caused by their negligence. In an order dated July 21, 2021, this court issued an order consolidating these two actions. Thereafter, plaintiff commenced a separate action against QFS under Kings County Index No. 531561/21 which alleged that his injuries were caused by its negligence. Ultimately, plaintiff's action against QFS was consolidated into the action against BIM, Adass, and Triangle under Kings County Index No. 525233/19. Notably, none of the consolidated

[1] The court notes that there are significant differences between plaintiff's testimony and the testimony of his supervisor Mr. Persaud. In particular, Mr. Persaud testified that the pit was only three feet deep and was accessed via an A-frame ladder. In addition, Mr. Persaud testified that he was not present at the jobsite on the day of the accident and that there was no ramp in the pit.

complaints alleged violations of the Labor Law. However, in a bill of particulars dated June 13, 2022, plaintiff alleged that the defendants violated Labor Law §§ 200, 240, and 241(6).

On or about April 22, 2022, BIM moved, in mot. seq. 14, for summary judgment dismissing plaintiff's complaint against it. In so-moving, BIM argued that it was plaintiff's employer at the time of the accident and that his claims were barred by the exclusive remedy provisions set forth in Workers' Compensation Law §§ 11 and 29(6). On or about May 3, 2022, plaintiff and BIM entered into a stipulation whereby plaintiff agreed to discontinue his action against BIM with prejudice.[2] On December 8, 2022, Adass and Triangle commenced a third-party action against QFS which sought common-law indemnity, contractual indemnity, as well as damages for breach of contract to procure liability insurance.[3]

On February 28, 2024, plaintiff filed a note of issue and certificate of readiness. On April 26, 2024, QFS filed the instant motion for summary judgment dismissing plaintiff's complaint against it. On June 5, 2024, plaintiff filed the instant cross-motion for leave to amend his complaint to add causes of action alleging violations of Labor Law §§ 200, 240(1), and 241(6). On October 2, 2024, Adass and Triangle filed the instant cross-motion for summary judgment on their contractual indemnification claims against QFS.

[2] Plaintiff elected not to file a workers' compensation claim following his accident although presumably, he would have been eligible to receive benefits under BIM's workers' compensation policy.
[3] The court notes that QFS's notice of motion seeks summary judgment dismissing all third-party claims against it. However, QFS's motion papers do not discuss Adass and Triangle's breach of contract claim against it.

Discussion

Cross-Motion to Amend

As a preliminary matter, the court must address plaintiff's cross motion to amend his complaint since the disposition of this motion will impact upon QFS's motion for summary judgment. In support of his cross motion for leave to amend his complaint, plaintiff initially notes that under CPLR 3025(b), leave to amend pleadings shall be freely given absent prejudice. Plaintiff further maintains that this is true even after the note of issue has been filed as long as the amendment does not prejudice the other parties. Here, plaintiff argues that the defendants cannot demonstrate that they would be prejudiced by the proposed amended complaint since he exchanged a bill of particulars with defendants which alleged violations of Labor Law §§ 200, 241(6), and 240(1) on June 13, 2022, which was before plaintiff's second examination before trial and nearly two years before the note of issue was filed. Plaintiff further notes that the proposed amendments do not allege any new facts or theories of liability since he has maintained since the outset of this action that he was injured during a construction project as the result of a ramp collapse. In addition, plaintiff notes that the defendants had a full and fair opportunity to question him regarding the details of the accident during the course of his two examinations before trial. Finally, plaintiff contends that he has a valid excuse for failing to move to amend his complaint until after the note of issue was filed and otherwise acted in good faith since he was awaiting confirmation from a "liability expert" to determine the feasibility of his Labor Law claims.

In opposition to plaintiff's cross motion to amend his complaint, QFS notes that plaintiff failed to move to amend until over three months after he filed his note of issue. QFS also contends that plaintiff has failed to provide the court with a valid or reasonable excuse for his delay since the factual circumstances upon which the proposed amendments are based were known to the plaintiff for years. Specifically, given the fact that plaintiff alleges that he was injured in a ramp-collapse accident during the course of a construction project, QFS maintains there was no need to retain a liability expert in order to determine the viability of a Labor Law claim. In any event, QFS notes that plaintiff has not offered any explanation why a liability expert was not retained sooner given the fact that this action has been pending for over five years.

Adass and Triangle also oppose plaintiff's motion to amend his complaint. In this regard, Adass and Triangle note that plaintiff made his motion to amend over three months after filing the note of issue. In addition, Adass and Triangle maintain that plaintiff has failed to offer a reasonable excuse for his delay. Finally, Adass and Triangle argue that they would be significantly prejudiced if plaintiff is permitted to amend his complaint since they will incur unnecessary defense costs associated with conducting a further deposition of plaintiff.

"In general, leave to amend a pleading may be granted at any time, including during trial, absent prejudice or surprise to the opposing party, unless the proposed amendment is palpably insufficient or patently devoid of merit" (*Galarraga v City of New York*, 54 AD3d 308, 310 [AD3d 2008], citing CPLR 3025[b]). That said, once discovery has been completed and the case has been certified as ready for trial, courts must consider various

factors in determining whether or not to grant a motion to amend a complaint or bill of particulars including "the length of time that elapsed after the party seeking the amendment was aware of the facts upon which the motion was predicated, whether a reasonable excuse for the delay was offered, and whether prejudiced resulted therefrom" (*Benegas v Ardsley Country Club, Inc.*, 230 AD3d 1094 [2d Dept 2024]). In the context of the Labor Law, assuming the proposed new claim in not patently lacking in merit, prejudice (or lack thereof) is generally deemed to be the most important factor when ruling on a motion to amend the complaint or bill of particulars after the note of issue has been filed (*see Gonzalez v City of New York*, 277 AD3d 958 [2d Dept 2024]; *Verdi v SP Irving Owner LLC*, 227 AD3d 932, 934 [2d Dept 2024]; *Castano v Algonquin Gas Transmission, LLC*, 213 AD3d 905, 908 [2d Dept 2023]). Prejudice occurs when the proposed amendment involves new factual allegations, new theories of liability or otherwise causes undue surprise (*see id.* at 908).

Here, it was apparent from the early stages of this action that the Labor Law was applicable given plaintiff's allegations that he was injured in a ramp-collapse accident during a construction project. Further, plaintiff has failed to offer a valid excuse for his failure to seek leave to amend his complaint until after he filed his note of issue. On the other hand, the defendants have failed to demonstrate that they would be prejudiced by the proposed amendments. Specifically, the proposed amendments adding Labor Law claims do not involve new factual allegations or theories of liability. Also, plaintiff exchanged a bill of particulars alleging violations of Labor Law §§ 200, 240(1) and 241(6) prior to his second examination before trial and over 20 months before he filed the note of issue. Thus,

the defendants cannot claim that they have been unfairly surprised by the proposed amendments. In addition, reviewing plaintiff's deposition transcript, it is clear that he was thoroughly questioned with respect to relevant issues involving Labor Law violations including the depth of the pit which he was allegedly climbing out of at the time of the accident, the distance of his alleged fall, the composition of the alleged temporary ramp involved in the accident and who he was supervised by while working on the project.

Turning to the issue of merit, the collapse of a temporary ramp at a construction site falls within the purview of Labor Law § 240(1) (*see Lajeunesse v Feinman*, 218 AD2d 827 [3d Dept 1995]). Further, as the respective owner and general contractor on the project, Adass and Triangle are subject to liability under the statute. Moreover, there is evidence that QFS was originally hired to perform work on the project and that it subsequently delegated that work to BIM. As such, QFS faces potential liability under Labor Law § 240 (1) as a statutory agent (*see Russin v Louis N. Picciano & Son*, 54 NY2d 311, 318 [1981]). Under the circumstances, with respect to the proposed Labor Law § 240(1) claim, plaintiff has made the requisite showing of merit and that branch of his motion which seeks leave to amend his complaint to add this claim is granted.

Turning to the proposed Labor Law § 241(6) claim. As was the case with plaintiff's Labor Law §240(1) claim, Adass, Triangle and QFS are all subject to liability under Labor Law §241(6). Further, to state a viable claim under the statute, a plaintiff must allege the violation of a New York State Industrial Code provision (12 NYCRR 23 et seq.) that sets forth a specific safety standard and is applicable given the circumstances of the accident (*see Ross v Curtis-Palmer Hydro-Elec. Co.*, 81 NY2d 494, 501-502 [1993]); *Ares v State*,

80 NY2d 959, 960 [1992]). Thus, with respect to Labor Law § 241 (6) claims, a plaintiff seeking to amend his pleadings after the note of issue has been filed must allege the violation of an Industrial Code provision that is both specific and applicable (*see Jones v New York State Thruway Auth.*, 220 AD3d 935, 936 [2d Dept 2023]). Here, although plaintiff's proposed amended complaint does not specify which Industrial Code provisions he is relying upon, he has exchanged an expert affidavit (NYSCEF Doc No. 440) which identifies several Industrial Code regulations which plaintiff claims were violated. While most of the Regulations cited by plaintiff's expert are either inapplicable or too general to support a Labor Law § 241 (6) claim, at least one of the Regulations – 12 NYCRR 23-1.22(b)(2) - is sufficiently specific and arguably applicable in this case. Accordingly, that branch of plaintiff's motion which seeks leave to amend his complaint to add a Labor Law § 241 (6) claim is granted.

With respect to the proposed Labor Law § 200 cause of action, there is evidence that QFS and Adass controlled and supervised plaintiff's work. Specifically, plaintiff's supervisor Mr. Persaud testified that he was employed by QFS. Further, BIM's deposition witness, Guy Amendola, testified that QFS provided a safety supervisor or site manager to construction sites on projects which it subcontracted out to BIM. In addition, both plaintiff and Mr. Persaud testified that BIM/QFS's laborers received instructions from Adass's foreman Mr. Fong. In addition, plaintiff testified that Mr. Fong's workers constructed the makeshift ramp that collapsed. Accordingly, that branch of plaintiff's cross motion which seeks leave to amend his complaint to add a Labor Law § 200 claim against QFS Adass is granted.

However, plaintiff has failed to make the requisite showing of merit with respect to his proposed Labor Law § 200 claim against the owner Triangle. In particular, there is no evidence that Triangle controlled or supervised plaintiff's work or that it even had a presence at the worksite. To the contrary, plaintiff testified that he was supervised solely by Mr. Persaud and (indirectly by) Mr. Fong and that he had never heard of Triangle. Accordingly, that branch of plaintiff's motion which seeks leave to add a Labor Law § 200 claim against Triangle is denied as plaintiff has failed to make the required showing of merit.

Given the court's rulings above, plaintiff is directed to serve an amended complaint upon the defendants alleging a Labor Law §§ 240 (1) and 241(6) violations against Adass, Triangle, and QFS and Labor Law § 200 violations against Adass and QFS within 10 days of entry of this order.

Plaintiff's Common-Law Negligence Claim Against QFS

QFS moves for summary judgment dismissing plaintiff's common-law negligence claim against it. In support of this motion, QFS maintains that, although it was initially retained by Adass to provide certain laborers on the underlying construction project, it delegated this responsibility to BIM. QFS also contends that it was not involved with the underlying construction project or the accident since plaintiff as well as his supervisor and coworkers were paid and employed by BIM and covered under BIM's workers' compensation policy. Under the circumstances, QFS argues that it did not owe or breach a duty of care with respect to plaintiff and that there is no basis for plaintiff's common-law negligence claim against it.

In opposition to QFS's motion, plaintiff maintains that QFS has failed to meet its burden of proof in moving for summary judgment. Specifically, plaintiff argues that QFS has failed to prove that it did not supervise plaintiff when he was performing work on the project. In this regard, plaintiff notes that plaintiff's immediate supervisor Mr. Persuad testified that he was employed by QFS notwithstanding the fact that his paychecks indicated that he was paid by BIM. Thus, plaintiff argues that QFS has failed to demonstrate that it did not perform any work on the project. Plaintiff also avers that QFS has failed to demonstrate that its workers were not responsible for the construction of the ramp that collapsed.

It is well-settled that the common-law places a duty upon owners and contractors to provide employees with a safe place to work and that this duty has been codified in Labor Law § 200 (*see Chowdhury v Rodriguez*, 57 AD3d 121, 127-128 [2d Dept 2008])). Liability for causes of action sounding in common-law negligence and for violations of Labor Law § 200 is limited to those who exercise control or supervision over the plaintiff's work or who have actual or constructive notice or otherwise created the unsafe condition that caused the underlying accident (*see Bradley* v *Morgan Stanley & Co., Inc.*, 21 AD3d 866, 868 [2d Dept 2005]; *Aranda v Park East Constr.*, 4 AD3d 315 [2004]; *Akins v Baker*, 247 AD2d 562, 563 [2d Dept 1998]). Specifically, "[w]here a premises condition is at issue, property owners [and contractors] may be held liable for a violation of Labor Law § 200 [or common-law negligence] 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" (*Ortega v Puccia*, 57 AD3d 54, 61 [2d Dept 2008]). However, "[w]en

a defect is latent and would not be discoverable upon a reasonable inspection, constructive notice may not be imputed" (*Schnell v Fitzgerald*, 95 AD3d 1295, 1295 [2d Dept 2011]).

"Where a plaintiff's claims implicate the means and methods of the work, an owner or a contractor will not be held liable under Labor Law § 200 [or common-law negligence] unless it had the authority to supervise or control the performance of the work. A defendant has the authority to supervise or control the work for purposes of Labor Law § 200 when that defendant bears the responsibility for the manner in which the work is performed" (*Ortega*, 57 AD3d at 62). General supervisory authority to oversee the progress of the work is insufficient to impose liability. If the challenged means and methods of the work are those of a subcontractor, and the owner or contractor exercises no supervisory control over the work, no liability attaches under Labor Law § 200 or the common law" (*LaRosa v Internap Network Serv. Corp.*, 83 AD3d 905 [2d Dept 2011]).

Here, since the accident was caused by the alleged failure of a safety device (i.e., the collapse of the makeshift ramp), it is deemed to have arisen out of the means and methods of the work (*see Castro v Brito*, 235 AD3d 527, 529 [1st Dept 2025]; *Valencia v Glinski*, 219 AD3d 541, 545 [2d Dept 2023]). Further, QFS has failed to demonstrate that it lacked the authority to control and supervise plaintiff's work. In particular, as previously noted, although the contract between QFS and BIM provided that BIM would supply its laborers free from QFS's control and plaintiff's supervisor Mr. Persuad testified that he was paid by BIM, he also testified that that he was employed by QFS. Further, as previously noted, BIM's deposition witness, Guy Amendola, testified that QFS provided a safety supervisor or site manager to construction sites in projects which it subcontracted

out to BIM. Under the circumstances, QFS's motion for summary judgment dismissing plaintiff's common-law negligence claim against it is denied as there are issues of fact regarding whether movant controlled and supervised plaintiff's work.

Contractual Indemnity Claims Against QFS

QFS moves for summary judgment dismissing Adass and Triangle's third-party claims seeking contractual indemnity against it. At the same time, Adass and Triangle cross-move for summary judgment under their contractual indemnity claim against QFS. In support of this branch of its motion, QFS notes that a party seeking contractual indemnity must establish that it was free from negligence and that any judgment rendered against them will be predicated solely by virtue of statutory or vicarious liability. Here since plaintiff's complaint only alleges that Adass and Triangle were negligent, QFS maintains that there is no possibility that they will be entitled to contractual indemnification against QFS in the event that they are ultimately determined to be negligent by the trier of fact.

In opposition to this branch of QFS's motion, and in support of their own cross-motion for summary judgment against QFS on their contractual indemnification claim, Adass and Triangle point to the language in the indemnification provision contained in the agreement between Adass and QFS. Specifically, Adass and Triangle note that it requires QFS to indemnify them from and against all claims "arising from, in connection with or related to: (i) the performance [or non-performance] of the work." Adass and Triangle also note that the agreement requires QFS to indemnify them against any claim brought by a QFS employee or an employee of QFS's subcontractors. Here, Adass and Triangle

maintain that QFS is obligated to indemnify them under this provision since plaintiff was employed by QFS's subcontractor BIM.

The right to contractual indemnification is dependent upon the specific language in the contract (*see Reisman v Bay Shore Union Free School Dist.*, 74 AD3d 772, 773 [2d Dept 2010]). In this regard, the obligation to indemnify should only be found where it is clearly indicated in the language in the contract (*see George v Marshalls of MA., Inc.*, 61 AD3d 925, 930 [2d Dept 2009]). Finally, a party seeking contractual indemnification must demonstrate that it was free of negligence since a party may not be indemnified for its own negligent conduct (*see Cava Constr. Co., Inc. v Gaeltec Remodeling Corp.*, 58 AD3d 660, 662 [2d Dept 2009]; General Obligations Law § 5-322.1).

As an initial matter, given the fact that leave has been granted for plaintiff to interpose Labor Law §§ 240(1) and 241(6) claims against Triangle and Adass, these defendants are now subject to being held vicariously liable for plaintiff's injuries. Thus, there is no merit to QFS's argument, that there is no possibility that these defendants will be entitled to contractual indemnification. Accordingly, that branch of QFS's motion which seeks summary judgment dismissing Triangle and Adass's contractual indemnification claim against it is denied.

Turning to Triangle and Adass's cross-motion for summary judgment under their contractual indemnity claim, as previously noted, there is evidence that Adass supervised plaintiff's work and that its workers constructed the ramp involved in the accident. Under the circumstances, Adass is not entitled to summary judgment on its contractual indemnification claim since it is precluded under General Obligations Law § 5-322.1 from

being indemnified for its own negligence. However, the evidence before the court indicates that plaintiff was not supervised and controlled by Triangle and that Triangle's negligence did not play a role in the accident. Furthermore, under the terms of the indemnification clause, QFS is obligated to indemnify Triangle. Specifically, the accident clearly arose out of the work QFS was hired to perform, whether it performed this work directly, or delegated it to BIM. Further, although there is conflicting evidence regarding whether plaintiff was employed by BIM or QFS, he was employed by one of these entities and QFS was obligated to indemnify Triangle for claims brought by QFS employees and the employees of QFS's subcontractors. Accordingly, Triangle is entitled to summary judgment on its contractual indemnification claim against QFS.

Common-Law Indemnification/Contribution Claims Against QFS

QFS moves for summary judgment dismissing Triangle and Adass's common-law indemnification and contribution claims against it. In support of this branch of its motion, QFS reiterates its argument that it delegated all its responsibilities to perform work on the project to BIM and as such, did not owe or breach any duty of care with respect to plaintiff. Thus, QFS maintains that there is no basis for Triangle and Adass's common-law indemnification and contribution claims against it.

In opposition to this branch of QFS's motion, Adass and Triangle maintain that they did not supervise or control plaintiff's work and that there is no evidence that their negligence played a role in the accident. Further, Adass and Triangle contend that there is evidence that plaintiff's supervisor Mr. Persaud was employed by QFS. Under the

circumstances, Adass and Triangle argue that they have viable common-law indemnity and contribution claims against QFS.

"A party can establish its prima facie entitlement to judgment as a matter of law dismissing a cause of action for common-law indemnification, arising out of a workplace injury asserted against it by establishing that it was not negligent, and that it did not have the [ability] to direct, supervise, or control the work giving rise to the injury" (*Council on Foreign Relations, Inc. v ABC Interiors Unlimited, Inc.*, 189 AD3d 1168, 1168 [AD2d 2020]). Here, the court has already determined that there are issues of fact regarding whether QFS supervised and controlled plaintiff's work. Further, although there is evidence that Adass supervised plaintiff's work and was otherwise negligent, this has not been established as a matter of law. Accordingly, that branch of QFS's motion which seeks summary judgment dismissing Adass and Triangle's common-law indemnification and contribution claims against it is denied.

Summary

In summary, the court rules as follows:

(1) QFS's motion, in mot. seq. 30, which seeks summary judgment dismissing plaintiff's complaint as well as Adass and Triangle's third-party claims against it is denied;

(2) That branch of plaintiff's cross-motion, in mot. seq. 31, which seeks leave to amend his complaint to assert a Labor Law § 240 (1) claim against all defendants is granted. That branch of plaintiff's cross-motion which seeks leave to amend his complaint to assert a Labor Law § 241 (6) claim against all defendants is granted. That branch of plaintiff's

cross-motion which seeks leave to assert a Labor Law § 200 claim is granted as against Adass and QFS and denied as against Triangle.

(3) That branch of Adass and Triangle's cross-motion, in mot. seq. 34, which seeks summary judgment under their contractual indemnification claim against QFS is granted with respect to Triangle and denied with respect to Adass.

This constitutes the decision and order of the court.

ENTER FORTHWITH:

RICHARD VELASQUEZ, J.S.C.

Hon. Richard Velasquez, JSC

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