

Siu Ying Mak Chin v Empire Resorts Inc.

2026 NY Slip Op 31172(U)

March 24, 2026

Supreme Court, New York County

Docket Number: Index No. 151192/2023

Judge: Arlene P. Bluth

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This opinion is uncorrected and not selected for official publication.

**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. ARLENE P. BLUTH PART 14

Justice

-----X

SIU YING MAK CHIN,

Plaintiff,

- v -

EMPIRE RESORTS INC. d/b/a RESORTS WORLD
CATSKILLS, EPT CONCORD II, LLC, MONTREIGN
OPERATING COMPANY, LLC, LPCIMINELLI, INC.,

Defendant.

-----X

EMPIRE RESORTS INC., MONTREIGN OPERATING
COMPANY, LLC

Plaintiff,

-against-

LPCIMINELLI, INC.

Defendant.

-----X

INDEX NO. 151192/2023

MOTION DATE N/A

MOTION SEQ. NO. 002

**DECISION + ORDER ON
MOTION**

Third-Party
Index No. 595987/2023

The following e-filed documents, listed by NYSCEF document number (Motion 002) 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 117, 118, 119, 120, 121, 122, 123

were read on this motion to/for JUDGMENT - SUMMARY.

Plaintiff’s motion for summary judgment against defendant Montreign Operating Company, LLC (“Casino”) is granted as described below.

Background

The facts of this personal injury matter are largely undisputed. Plaintiff was at Resorts World Catskills Casino in Sullivan County and seated in the food court when a ceiling-mounted decorative “valance wall” fell on her from 30 feet above. Plaintiff was rendered unconscious and

had to be airlifted to Westchester Medical Center for treatment. She was in the hospital for three weeks following the incident. Plaintiff contends that the Casino operated and owned the premises and is therefore liable under the doctrine of res ipsa loquitur. She contends that there is no non-negligent explanation for how a ceiling could suddenly collapse on top of her.

In opposition, defendants contend that there are issues of fact concerning which entity is responsible for the underlying incident and they suggest that third-party defendant LP Ciminelli is the actual responsible party. Defendants argue that the third-party defendant built the casino and that this entity hired and supervised the subcontractors who allegedly improperly installed the ceiling valance.

In reply, plaintiff points out that the casino opened February 2018 and the ceiling collapse occurred in December 2022, and that there was no maintenance or renovation of the ceiling in question. Plaintiff argues that the third-party defendant's potential culpability only relates to shifting liability among the casino entities and the third-party defendant but it does not provide a reason to deny her motion.

Discussion

“Res ipsa loquitur applies when a plaintiff establishes: (1) the event is of the kind that ordinarily does not occur in the absence of someone's negligence; (2) the event was caused by an agency or instrumentality within the exclusive control of the defendant; and (3) the accident was not due to any voluntary action or contribution on the part of the plaintiff” (*Valdez v Upper Creston, LLC*, 201 AD3d 560, 561, 162 NYS3d 321 [1st Dept 2022])

“[O]nly in the rarest of res ipsa loquitur cases may a plaintiff win summary judgment or a directed verdict. That would happen only when the plaintiff's circumstantial proof is so

convincing and the defendant's response so weak that the inference of defendant's negligence is inescapable" (*Morejon v Rais Const. Co.*, 7 NY3d 203, 209, 818 NYS2d 792 [2006]).

The Court grants the motion (*c.f. Jappa v Starrett City, Inc.*, 67 AD3d 968, 969, 888 NYS2d 776 (Mem) [2d Dept 2009] [noting that ceiling tiles falling on a plaintiff is a basis for liability under *res ipsa loquitur*]). The circumstantial evidence is entirely convincing in favor of plaintiff. She was sitting in the food court when the ceiling above her collapsed. There is no suggestion, and defendants do not argue, that the ceiling collapsed without any negligence or that plaintiff did anything to contribute the happening of this incident. And defendants' contention that it did not have control over the ceiling is wholly without merit—the casino opened in February 2018 and this accident took place in December 2022. To assert that a contractor somehow had control over the ceiling years after it was constructed (and without any evidence that there was any ongoing construction or renovation) is not a plausible issue of fact.

The Court observes that the notice of motion seeks partial summary judgment on liability as against only defendant Montreign Operating Company, LLC and so the Court grants the motion as against that entity. That plaintiff requests relief as against an additional defendant in reply is improper.

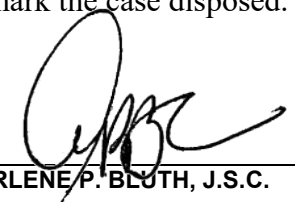
As there are multiple defendants remaining, the Court denies plaintiff's request for an immediate inquest. Moreover, the Court observes that in the Court's decision for motion sequence 001, it set a note of issue date for February 26, 2026 (NYSCEF Doc. No. 113). No note of issue has been filed. Plaintiff has until March 30, 2026 to file the note of issue or the Court will rescind this decision and mark the case disposed.

Accordingly, it is hereby

ORDERED that plaintiff's motion for partial summary judgment as to liability only against defendant Montreign Operating Company, LLC is granted; and it is further

ORDERED that the note of issue deadline is now March 30, 2026 and if a note of issue is not filed by that date, then the Court will rescind this decision and mark the case disposed.

3/24/2026
DATE


ARLENE P. BLUTH, J.S.C.

CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION	
	<input checked="" type="checkbox"/>	GRANTED	<input type="checkbox"/>	GRANTED IN PART	<input type="checkbox"/>
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER		SUBMIT ORDER	
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN		FIDUCIARY APPOINTMENT	<input type="checkbox"/>
					OTHER
					REFERENCE