

Sanchez v 21-23 S. William St. LLC
2026 NY Slip Op 31215(U)
March 24, 2026
Supreme Court, New York County
Docket Number: Index No. 151525/2020
Judge: David B. Cohen
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**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. DAVID B. COHEN PART 58

Justice

-----X

GUSTAVO SANCHEZ,

Plaintiff,

- v -

21-23 SOUTH WILLIAM STREET LLC, STONE STREET
PARTNERS LLC, BLOCK HALL CONDOMINIUM BOARD
OF MANAGERS, AMSTERDAM RESTORATION LLC,

Defendants.

-----X

BLOCK HALL CONDOMINIUM BOARD OF MANAGERS

Plaintiff,

-against-

MODERN RESTORATION CORP., AMSTERDAM
RESTORATION, LLC

Defendants.

-----X

INDEX NO. 151525/2020

MOTION DATE 05/03/2024,
11/11/2024,
11/12/2024

MOTION SEQ. NO. 002 003 004

**DECISION + ORDER ON
MOTION**

Third-Party
Index No. 595312/2021

The following e-filed documents, listed by NYSCEF document number (Motion 002) 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 81, 82, 83, 84, 85, 87, 89, 90, 91, 92, 93, 94, 95 were read on this motion to/for JUDGMENT - SUMMARY.

The following e-filed documents, listed by NYSCEF document number (Motion 003) 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114 were read on this motion to/for SUMMARY JUDGMENT (AFTER JOINDER).

The following e-filed documents, listed by NYSCEF document number (Motion 004) 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139 were read on this motion to/for JUDGMENT - SUMMARY.

In this Labor Law action, plaintiff moves for partial summary judgment on liability under Labor Law § 240(1) against defendants Block Hall Condominium Board of Managers

(Block Hall) and Amsterdam Restoration LLC (Amsterdam) (Motion Seq. 002). Both defendants oppose.

Amsterdam separately moves for summary judgment dismissing the complaint and all cross-claims against it (Motion Seq. 004), which motion is opposed by plaintiff and Block Hall.

Stone Street Partners LLC (Stone Street) also moves for summary judgment dismissing all claims and cross-claims against it (Motion Seq. 003), which is unopposed.

I. BACKGROUND

This action arises from a construction accident that occurred on July 19, 2019, at 21–23 South William Street in Manhattan (the premises), where plaintiff was working in connection with exterior façade work being performed on the building (NYSCEF 101; 117).

At the time of the incident, plaintiff was employed by Modern Restoration Corp. (Modern),¹ which was performing work at the premises (*id.*).

Block Hall is the condominium board responsible for the management of the building located at the premises (NYSCEF 101). Block Hall retained Amsterdam to perform exterior façade work at the building pursuant to written proposals accepted in 2019 (*id.*). The scope of that work included exterior masonry repairs, including brick replacement and repointing, as well as the provision and installation of a sidewalk shed and suspended scaffolding (NYSCEF 75, 101, 110). The written proposals further reflect that Amsterdam's scope of work included obtaining DOB permits and providing and installing access equipment, including a sidewalk shed, suspended scaffolding, access ladders, and fall protection in connection with the façade work (NYSCEF 75).

¹ Modern was impleaded by Block Hall as a third-party defendant (NYSCEF 19) and has defaulted in the third-party action.

Amsterdam thereafter entered into a subcontractor agreement with Modern in connection with certain portions of the façade work, pursuant to which Modern supplied labor to perform work within the scope of Amsterdam's contract (NYSCEF 133).

Defendant Stone Street Partners LLC (Stone Street) is the owner of a commercial condominium unit within the Block Hall Condominium (NYSCEF 101). Stone Street did not retain Modern to perform work at the premises and did not contract with Amsterdam for the façade work at issue (NYSCEF 101).

Block Hall submits a single-page acupuncture treatment record prepared in connection with plaintiff's workers' compensation claim, which includes a brief description of the incident as part of an intake form, stating that plaintiff was seeking treatment due to an injury where he slipped and fell onto his left foot (NYSCEF 84).

Plaintiff EBT (NYSCEF 71)

On July 19, 2019, plaintiff was employed by Modern and assigned to work on the façade project at the premises. His direct supervisor on the project was an individual identified as Mario, who was employed by Modern and was present at the job site on the day of the incident. When plaintiff arrived at the premises, he was instructed to go onto the sidewalk bridge to assist in dismantling its components. He accessed the bridge using a ladder provided by Modern and performed dismantling work on the bridge platform along with other workers. No safety harness, net, lifeline, or other fall-protection device was provided while plaintiff was working on the bridge.

While plaintiff was standing on the bridge platform, a portion of the decking or planking shifted or moved, causing him to lose his footing and fall from the bridge to the sidewalk below. Plaintiff landed on the sidewalk and sustained injuries as a result of the fall.

Plaintiff called the ambulance himself, which took him to the hospital where it was determined that he fractured his left heel, requiring surgery one week later.

Block Hall EBT (NYSCEF 73)

Block Hall did not employ plaintiff, provide him with tools or safety equipment, or direct the manner in which his work was performed. Block Hall did not provide day-to-day supervision of plaintiff's work and did not direct plaintiff's dismantling activities on the sidewalk bridge. Block Hall personnel were not present on the sidewalk bridge at the time of the accident and did not witness the incident.

Amsterdam EBT (NYSCEF 76)

Amsterdam did not employ plaintiff, provide him with tools or safety equipment, or direct the day-to-day performance of his work, and plaintiff instead received his work instructions from his supervisor at Modern.

Stone Street EBT (NYSCEF 72)

Stone Street owns a commercial condominium unit within the premises, which houses its business, a restaurant known as The Dubliner. Stone Street does not own, manage, or control the building's common elements, including the exterior façade and sidewalk areas.

Stone Street did not contract for, supervise, or perform any exterior façade work at the premises in July 2019, did not retain Amsterdam or Modern in connection with that work, and did not direct the manner in which any work was performed. Stone Street had no involvement with the sidewalk bridge or scaffold at issue.

II. DISCUSSION

“On a motion for summary judgment, facts must be viewed ‘in the light most favorable to the non-moving party’ ” (*Vega v Restani Constr. Corp.*, 18 NY3d 499, 503 [2012], quoting *Ortiz v Varsity Holdings, LLC*, 18 NY3d 335, 339 [2011]). The “movant bears the heavy burden of establishing ‘a prima facie showing of entitlement to judgment as a matter of law, tendering sufficient evidence to demonstrate the absence of any material issues of fact’ ” (*Deleon v New York City Sanitation Dept.*, 25 NY3d 1102, 1106 [2015], quoting *Alvarez v Prospect Hosp.*, 68 NY2d 320, 324 [1986]; see *Winegrad v New York Univ. Med. Ctr.*, 64 NY2d 851, 853 [1985]). The moving party's “[f]ailure to make such prima facie showing requires a denial of the motion, regardless of the sufficiency of the opposing papers” (*Alvarez*, 68 NY2d, at 324). Only if movant's burden is met does the burden then shift to the opposing party to demonstrate the existence of a triable issue of fact (*Alvarez*, 68 NY2d, at 320, 324; *Zuckerman v City of New York*, 49 NY2d 557 [1980]).

A. MOTION SEQUENCE 002 – Plaintiff’s Motion for Summary Judgment

Plaintiff moves for summary judgment on liability against Block Hall and Amsterdam, contending that he was working on an elevated scaffold or sidewalk bridge when planking or decking shifted, opened, or failed, causing him to fall approximately 12 feet to the ground below. According to plaintiff, the scaffold or sidewalk bridge constituted a safety device within the meaning of the statute, and its failure establishes a prima facie violation of Labor Law § 240(1) as a matter of law. Plaintiff further contends that no adequate fall-protection devices were provided to prevent the fall, and that comparative negligence, if any, is irrelevant to liability under the statute.

Block Hall opposes, arguing that triable issues of fact exist as to how the accident occurred. Block Hall contends that plaintiff, as the sole witness to the accident, provided differing accounts of the incident, as documented in his Workers Compensation acupuncture report, and that these alleged inconsistencies raise credibility issues which preclude summary judgment.

Amsterdam also opposes, contending that it was not an owner, contractor, or statutory agent subject to liability under Labor Law § 240(1), and that it did not supervise or control plaintiff's work. It further argues that plaintiff was employed and directed solely by his employer, Modern, and that issues of fact exist as to Amsterdam's role at the project and its connection, if any, to the alleged failure of the safety device.

In reply, plaintiff argues that neither defendant raises a triable issue of fact sufficient to defeat summary judgment. Plaintiff contends that the alleged inconsistencies relied upon by Block Hall are based on inadmissible hearsay and speculation, and that the accident was not unwitnessed, as he testified that a co-worker observed the incident. Plaintiff further argues that defendants' attempts to characterize the accident as a means-and-methods issue or to rely on purported credibility disputes are unavailing where the record establishes that plaintiff fell from an elevated work surface due to the movement or failure of planking. Plaintiff also contends that Amsterdam's asserted lack of supervision does not defeat Labor Law § 240(1) liability, and that the dismantling of a scaffold or sidewalk bridge does not remove the work from the statute's protections.

Applicable Law and Analysis

Labor Law § 240(1) imposes a nondelegable duty on owners and contractors to provide safety devices that give proper protection to workers exposed to elevation-related risks, and it

imposes absolute liability where a violation proximately causes injury (*see Saint v Syracuse Supply Co.*, 25 NY3d 117, 124 [2015]; *see Ross v Curtis–Palmer Hydro–Elec. Co.*, 81 NY2d 494, 501 [1993]). Owners and general contractors may be held absolutely liable for violations of Labor Law § 240(1) regardless of whether the work was performed by an independent contractor and irrespective of their supervision or control over the work (*see McCarthy v Turner Constr., Inc.*, 17 NY3d 369, 374 [2011]). The “single decisive question” is whether the plaintiff’s injuries were “the direct consequence of a failure to provide adequate protection against a risk arising from a physically significant elevation differential” (*Hill v City of New York*, 140 AD3d 568, 569 [1st Dept 2016] [internal quotation marks omitted]).

Here, plaintiff has established prima facie entitlement to summary judgment on liability under Labor Law § 240(1). Block Hall relies on a single-page acupuncture intake record prepared in connection with plaintiff’s workers’ compensation claim, which contains a brief notation stating that plaintiff “slipped and fell.” However, there is no indication in the record that this notation reflects plaintiff’s own statement, as opposed to the provider’s characterization, and Block Hall offers no evidentiary foundation establishing its admissibility. In the absence of evidence that plaintiff made the statement or adopted it, the entry constitutes hearsay and is insufficient to create a triable issue of fact. Moreover, even if considered, the notation does not contradict plaintiff’s testimony that he fell from an elevated sidewalk bridge after the planking shifted. Accordingly, the record does not present a material factual dispute as to the mechanism of the fall (*see Gutierrez v Turner Towers Tenants Corp.*, 202 AD3d 437, 438 [1st Dept 2022]).

To the extent Block Hall suggests that plaintiff was, or may have been, the sole proximate cause of the accident, that argument is likewise unavailing, as plaintiff was not

provided with an adequate safety device to perform the scaffold work (*see Badzio*, 200 AD3d at 592 [sole proximate cause defense unavailing where no adequate safety device was provided]).

Amsterdam's opposition likewise fails to defeat plaintiff's prima facie showing. Liability under Labor Law § 240(1) does not depend on whether a defendant exercised direct supervision or control over the plaintiff's work (*see McCarthy*, 17 NY3d at 374–375). Nor is a contractor relieved of statutory responsibility by delegating work to a subcontractor (*see Ross*, 81 NY2d at 500–501). As a contractor or statutory agent with responsibility for the work involving the sidewalk bridge or scaffold, Amsterdam is subject to the nondelegable duty imposed by Labor Law § 240(1) (*Walls v Turner Constr. Co.*, 4 NY3d 861, 863–864 [2005]).

Accordingly, plaintiff's motion for summary judgment on liability under Labor Law § 240(1) is granted.

B. MOTION SEQ. 004 – Amsterdam's Motion for Summary Judgment

Amsterdam moves for summary judgment dismissing the complaint and all cross-claims against it, asserting substantially the same arguments raised in opposition to plaintiff's Labor Law § 240(1) motion, namely that it was not an owner or general contractor at the project and did not exercise supervision or control over plaintiff's work. Amsterdam further contends that plaintiff was employed and directed solely by Modern, and that it therefore cannot be held liable under the Labor Law or under principles of common-law negligence. Amsterdam also seeks dismissal of all cross-claims for contribution and indemnification.

Plaintiff opposes the motion, arguing that Amsterdam's delegation of work to a subcontractor does not relieve it of statutory responsibility, and that Amsterdam has failed to establish its prima facie entitlement to dismissal of the Labor Law § 200 and common-law negligence claims.

Block Hall also opposes, contending that Amsterdam was retained in connection with the exterior work at issue and entered into a subcontract with Modern to perform that work, and that triable issues of fact exist as to whether Amsterdam acted as a contractor or statutory agent with respect to the work that gave rise to plaintiff's injuries. Block Hall further argues that dismissal of its cross-claims for contribution and indemnification is premature.

Applicable Law and Analysis

Amsterdam has failed to establish its prima facie entitlement to summary judgment dismissing the Labor Law § 240(1) claim. As discussed above, liability under Labor Law § 240(1) does not depend on whether a defendant exercised supervision or control over the plaintiff's work, nor does it relieve a contractor of its responsibility by delegating work to a subcontractor (*see McCarthy*, 17 NY3d at 374–375; *see Ross*, 81 NY2d at 500–501). Having already determined that plaintiff was injured as a result of the failure of an elevation-related safety device, Amsterdam's contention that it lacked day-to-day supervision or control is legally irrelevant. As the entity retained to perform the façade repairs at the premises, which in turn subcontracted portions of that work involving the sidewalk bridge or scaffold, Amsterdam is subject to the nondelegable duty imposed by Labor Law § 240(1) and is not entitled to dismissal of that claim (*see Walls*, 4 NY3d at 863–864).

However, with respect to the Labor Law § 200 and common-law negligence claims, Amsterdam has established its prima facie entitlement to summary judgment. Those claims are analyzed under two distinct theories: dangerous or defective premises conditions, and the manner in which the work was performed (*Rosa v 47 E. 34th St. (NY), L.P.*, 208 AD3d 1075 [1st Dept 2022]; *Cappabianca v Skanska USA Bldg. Inc.*, 99 AD3d 139, 144 [1st Dept. 2012]). Here, the record establishes that Amsterdam did not employ plaintiff, did not provide him with work

instructions, and did not exercise day-to-day supervision or control over the dismantling work being performed on the sidewalk bridge. Plaintiff testified that he received his work instructions from his supervisor at Modern, and no Amsterdam personnel were present directing the work at the time of the accident. In the absence of evidence that Amsterdam supervised or controlled the means and methods of plaintiff's work, and where no dangerous or defective premises condition attributable to Amsterdam is alleged, the Labor Law § 200 and common-law negligence claims must be dismissed (*see Cappabianca*, 99 AD3d at 144, *Hughes v Tishman Constr. Corp.*, 40 AD3d 305, 306 [1st Dept 2007])

Finally, Amsterdam's request for dismissal of the cross-claims for contribution and indemnification is premature. Where issues of fact remain as to the respective fault of the defendants, and where liability has not yet been apportioned, dismissal of cross-claims for contribution and indemnification is inappropriate (*see Rodriguez*, 31 NY3d at 324).

Accordingly, those cross-claims remain.

C. MOTION SEQ. 003 – Stone Street's Motion for Summary Judgement

Stone Street moves for summary judgment dismissing the complaint and all cross-claims against it, arguing that it is a commercial condominium unit owner with no ownership interest in, or control over, the common elements of the building where the accident occurred. Stone Street contends that the accident arose from work performed on the building façade and sidewalk shed, both of which constitute common elements under the condominium declaration and are managed exclusively by Block Hall. According to Stone Street, it did not contract for the work at issue, did not supervise or control the work, and had no authority to direct the means and methods of plaintiff's work. Stone Street further argues that, as a matter of law, a condominium unit owner may not be held liable under Labor Law §§ 240(1), 241(6), or 200 for injuries arising from work

performed on common elements over which it exercises no control. Stone Street's motion is unopposed.

As the proponent of summary judgment, Stone Street bears the initial burden of establishing its prima facie entitlement to judgment as a matter of law by tendering evidence sufficient to eliminate any material issues of fact. Where, as here, the motion is unopposed, the Court must nevertheless determine whether the movant has met this burden (*see Winegrad v New York Univ. Med. Ctr.*, 64 NY2d 851, 853 [1985]).

Stone Street has satisfied its prima facie burden. The record establishes that Stone Street is a commercial condominium unit owner within the Block Hall Condominium and does not own, manage, or control the building's common elements, including the exterior façade and sidewalk scaffold where the accident occurred. A condominium unit owner that lacks ownership, control, or supervisory authority over the common elements of a building is not a proper Labor Law defendant with respect to injuries arising from work performed on those common elements (*Jerdonek v 41 W. 72 LLC*, 143 AD3d 43,48 [1st Dept 2016]). Rather, "the proper defendant is the board of managers" (*id.*), in this case, Block Hall.

For the same reasons, Stone Street cannot be held liable under Labor Law § 200 or common-law negligence. Those claims require proof that the defendant exercised supervisory control over the work or had notice of a dangerous condition on property it owned or controlled. The record contains no evidence that Stone Street exercised any supervision or control over the work being performed or had notice of any allegedly dangerous condition associated with the façade or sidewalk scaffold.

Finally, because Stone Street bears no liability to plaintiff, all cross-claims asserted against it for contribution and indemnification must likewise be dismissed.

Accordingly, Stone Street’s motion for summary judgment dismissing the complaint and all cross-claims against it (Motion Seq. 003) is granted in its entirety.

III. CONCLUSION

Accordingly, it is hereby

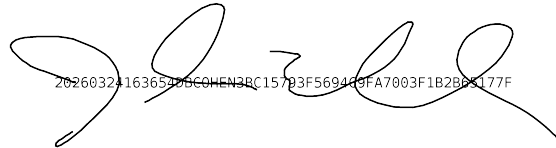
ORDERED that plaintiff’s motion for summary judgment on liability under Labor Law § 240(1) against defendants Block Hall Condominium Board of Managers and Amsterdam Restoration LLC (Motion Seq. 002) is granted; and it is further

ORDERED that defendant Amsterdam Restoration LLC’s motion for summary judgment (Motion Seq. 004) is granted only as to plaintiff’s Labor Law § 200 and common-law negligence claims and those claims are severed and dismissed, and the motion is otherwise denied; and it is further

ORDERED that Stone Street Partners LLC’s motion for summary judgment dismissing the complaint and all cross-claims against it (Motion Seq. 003) is granted, and the complaint and all cross-claims are severed and dismissed as against Stone Street Partners LLC; and it is further

ORDERED that the Clerk shall enter judgment accordingly; and it is further

ORDERED that counsel for the remaining parties shall appear for the scheduled in-person settlement conference with Senior Settlement Coordinator Miles Vigilante, Esq., at 80 Centre Street, Room 106, on April 28, 2026 at 10:00 a.m.



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DAVID B. COHEN, J.S.C.

3/24/2026
DATE

CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION	
	<input type="checkbox"/>	GRANTED	<input type="checkbox"/>	GRANTED IN PART	<input type="checkbox"/>
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