

Martinez v 67 Wall St. Owner, L.L.C.
2026 NY Slip Op 31579(U)
April 14, 2026
Supreme Court, New York County
Docket Number: Index No. 152705/2023
Judge: Ilana J. Marcus
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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. ILANA J. MARCUS

PART

05

Justice

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RICHARD R. MARTINEZ,

Plaintiff,

- v -

67 WALL STREET OWNER, L.L.C. and 75 WALL ST. CONDO,

Defendants.

-----X

RONALD COWLEY and JUNE COWLEY,

Plaintiffs,

- v -

FIRSTSERVICE RESIDENTIAL NEW YORK, INC.; P.S. MARCATO ELEVATOR CO., INC.; 75 WALL ASSOCIATES, LLC; THE CITY OF NEW YORK; 75 WALL STREET CONDOMINIUM; HAKIMIAN MANAGEMENT CORPORATION; 75 WALL RETAIL, LLC; 75 WALL HOTEL, LLC; 75 WALL HOTEL SPE, LLC; 75 WALL MANAGEMENT CORP.; 75 WALL ASSOCIATES, SPE, LLC; ANDAZ HYATT HOTEL; ANDAZ WALL STREET; WALL AND WATER ASSOCIATES, LLC; WALL HOTEL SPE, LLC; THE HAKIMIAN ORGANIZATION,

Defendants.

-----X

RICHARD R. MARTINEZ,

Plaintiff,

- v -

FIRSTSERVICE RESIDENTIAL NEW YORK INC.; P.S. MARCATO ELEVATOR CO., INC.; 75 WALL STREET CONDOMINIUM; ANDAZ HYATT HOTEL; ANDAZ WALL STREET; WALL AND WATER ASSOCIATES, LLC; WALL HOTEL SPE, LLC; THE HAKIMIAN ORGANIZATION; HAKIMIAN MANAGEMENT CORPORATION; 75 WALL RETAIL, LLC; 75 WALL ASSOCIATES, LLC; 75 WALL HOTEL, LLC; 75 WALL HOTEL SPE, LLC; 75 WALL MANAGEMENT

INDEX NO. 152705/2023
MOTION DATE 01/05/2026
MOTION SEQ. NO. 001

DECISION + ORDER ON MOTION

Index No. 152705/2023

CORP.; and 75 WALL ASSOCIATES SPE, LLC,

Defendants.

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The following e-filed documents, listed by NYSCEF document number (Motion 003): 104-123
were read on this motion to/for JUDGMENT - SUMMARY

Upon the foregoing documents, defendant 67 WALL STREET OWNER, L.L.C. (67 Wall) moves pursuant to CPLR 3212 for summary judgment and dismissal of plaintiff's complaint. No parties filed opposition. For the reasons set forth herein, defendant's motion is granted and the action against 67 WALL STREET OWNER, L.L.C. is dismissed.

BACKGROUND

Plaintiffs' claims arise from an alleged elevator accident on November 30, 2021, at 75 Wall Street, New York, New York. Plaintiff Richard R. Martinez and plaintiff Ronald Cowley allege that they were injured when the elevator in which they were riding suddenly dropped or malfunctioned. June Cowley asserts derivative claims arising from Ronald Cowley's alleged injuries. The moving defendant, 67 Wall, contends that it has no connection to the accident because it owns 67 Wall Street, not 75 Wall Street, and that the two buildings are separate and distinct properties (*see* NYSCEF Doc. No. 121). 67 Wall further asserts that 75 Wall Associates, LLC admitted ownership of 75 Wall Street, FirstService Residential New York, Inc. admitted it was the only management company for 75 Wall Street, and records produced by P.S. Marcato Elevator Co., Inc. identify 75 Wall Street Condominium as owner in connection with the elevator maintenance agreement (*see* NYSCEF Doc. Nos. 112-118).

Procedurally, plaintiff Martinez first commenced an action under Index No. 152400/2022 on March 21, 2022, against 67 Wall and 75 Wall St. Condo. Thereafter, plaintiffs Ronald and June Cowley commenced a separate action under Index No. 151584/2023 on February 17, 2023. That action was later expanded, by leave of court, through a supplemental summons and amended complaint filed on September 6, 2024, adding numerous defendants associated with 75 Wall Street, and answers were thereafter filed by various defendants between September and December 2024. Plaintiff Martinez also commenced a second action under Index No. 152705/2023 on March 23, 2023, initially against several 75 Wall-related entities. In February 2025, Martinez moved to consolidate/join the three actions. The motion was granted first by status conference order dated March 11, 2025, then by formal decision dated March 19, 2025, and then amended by order dated June 30, 2025 (*see* NYSCEF Doc. No. 119).

Defendant 67 Wall filed the instant motion for summary judgment on December 30, 2025. Given the potentially conflicting decrees in the status conference order dated March 11, 2025, as compared to the amended order dated June 30, 2025, 67 Wall filed identical motions for summary judgment under Index numbers 152400/2022 and 152705/2023. Both motions were marked submitted without opposition on February 3, 2026.

DISCUSSION

The movant on a motion for summary judgment must make a prima facie showing of entitlement to judgment as a matter of law by tendering sufficient evidence to eliminate any material issues of fact from the case (*see Winegrad v New York Univ. Med. Ctr.*, 64 NY2d 851, 853 [1985]; *Zuckerman v City of New York*, 49 NY2d 557, 562 [1980]). CPLR 3212(b) provides that a summary judgment motion must be supported by an affidavit of a person with knowledge of the facts, as well as other admissible evidence (*see JMD Holding Corp. v Congress Fin. Corp.*, 4 NY3d 373, 384-85 [2005]). Once such a showing is made, “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” (*Alvarez v Prospect Hosp.*, 68 NY2d 320, 324 [1986], citing *Zuckerman v City of New York*, 49 NY2d at 562). To meet this burden, the opposing party must “lay bare his proofs and make an evidentiary showing that there exists genuine, triable issues of fact” (*Oates v Marino*, 106 AD2d 289, 291 [1st Dept 1984]).

Here, defendant 67 Wall presented sufficient evidence establishing a prima facie showing of entitlement to judgment as a matter of law. 67 Wall submits the affidavit of its Vice President, Ron J. Hoyl, (NYSCEF Doc No. 121). In his affidavit, Mr. Hoyl states that 75 Wall Street (the location of the accident), including the elevators situated therein, are and have never been owned, operated, managed, controlled, supervised, or leased, by defendant 67 Wall. As such, 67 Wall contends it cannot be held liable as it did not owe a duty of care to maintain the incident site on the date of the accident (*see Solomon by Solomon v City of New York*, 66 NY2d 1026 [1985]).

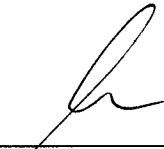
Plaintiff fails to oppose and present any evidence establishing the existence of material issues of fact which require a trial on the action.

Accordingly, it is hereby

ORDERED that defendant 67 WALL STREET OWNER, L.L.C.'s motion for summary judgment and dismissal is granted without opposition and on default; the action is dismissed as against defendant 67 WALL STREET OWNER, L.L.C. only under Index No. 152705/2023; the Clerk of the Court is directed to enter judgment in favor of defendant 67 WALL STREET OWNER, L.L.C. only under Index No. 152705/2023; and it is further

ORDERED that defendant 67 WALL STREET OWNER, L.L.C. shall serve a copy of this order upon all parties to all joined actions with Notice of Entry and shall also file such Notice of Entry with the court with proof of service

This constitutes the decision and order of the court.

<u>04/14/2026</u> DATE	 _____ ILANA S. MARCUS, 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"/>	DENIED
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>	GRANTED IN PART
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	SUBMIT ORDER
			<input type="checkbox"/>	FIDUCIARY APPOINTMENT
			<input type="checkbox"/>	OTHER
			<input type="checkbox"/>	REFERENCE