

**Gjombalaj v
Board of Mgrs. of One Beacon Ct. Condominium**

2026 NY Slip Op 31761(U)

April 17, 2026

Supreme Court, New York County

Docket Number: Index No. 156008/2023

Judge: Matthew V. Grieco

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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. MATTHEW V. GRIECO PART 30M

Justice

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INDEX NO. 156008/2023

ISMET GJOMBALAJ,

MOTION DATE 01/15/2026

Plaintiff,

MOTION SEQ. NO. 001

- v -

THE BOARD OF MANAGERS OF ONE BEACON COURT
CONDOMINIUM, 731 OFFICE ONE LLC, 731 RETAIL ONE
LLC, HOME DEPOT U.S.A, INC.

DECISION + ORDER ON
MOTION

Defendants.

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 28, 29, 30, 31, 32,
33, 34, 35, 36, 37

were read on this motion to/for JUDGMENT - SUMMARY

Upon the foregoing documents, and for the reasons stated infra, the unopposed
motion is granted.

Plaintiff, Ismet Gjombalaj, alleges that he was lawfully working in a building
located at 731 Lexington Avenue, New York, New York, on November 11, 2022, when he
suffered personal injuries as result of being struck by a pallet jack and/or materials
inside a freight elevator, due to the negligence of defendants, The Board of Managers of
One Beacon Court Condominium ("Board"), 731 Office One LLC ("731 Office"), 731
Retail One LLC ("731 Retail"), and Home Depot U.S.A., Inc. ("Home Depot") (NYSCEF
Doc. No. 1). All defendants answered (NYSCEF Doc. Nos. 8, 12) and stipulated to
discontinue all cross-claims against each other (NYSCEF Doc. No. 21).

After all discovery was conducted and plaintiff filed a note of issue (NYSCEF Doc.
No. 27), defendant 731 Office moved for summary judgment to dismiss the complaint
and any cross-claims as against it, on the ground that it did not own, operate, manage,

or have any other connection to either the freight elevator or the pallet jack/materials, and thus did not even owe plaintiff a duty of care (NYSCEF Doc. Nos. 28-37). No party has submitted opposition.

To obtain summary judgment, the movant must make a prima facie showing of entitlement to judgment as a matter of law by tendering evidentiary proof in admissible form that eliminates all material issues of fact (*see Alvarez v Prospect Hosp.*, 68 NY2d 320, 324 [1986]; *Zuckerman v City of New York*, 49 NY2d 557, 562 [1980]). The failure to make such a showing requires denial of the motion, regardless of the sufficiency of the opposing papers (*see Alvarez*, 68 NY2d at 324; *Winegrad v New York Univ. Med. Ctr.*, 64 NY2d 851, 853 [1985]). If the movant succeeds in making a prima facie showing, then the burden shifts to the party opposing the motion to submit proof in evidentiary form sufficient to raise a question of material fact requiring a trial on the matter (*see Alvarez*, 68 NY2d at 324; *Zuckerman*, 49 NY2d at 562). The facts must be viewed in the light most favorable to the non-movant (*see Vega v Restani Constr. Corp.*, 18 NY3d 499, 503 [2012]).

Plaintiff testified at his deposition that he was an elevator operator, employed by the owner of the building located at 731 Lexington Avenue (NYSCEF Doc. 32 at 13-14, 19). On the day of his accident, he was operating a service elevator that had access to a Home Depot store and a restaurant (*id.* at 20). He was shown a surveillance video, which he confirmed accurately depicted the incident (*id.* at 21-22). The elevator doors opened at a Home Depot storage level, where “Israel,” a Home Depot Employee, loaded onto the elevator a pallet jack bearing refrigerators (*id.* at 22-26, 29-30). Plaintiff stated that he had only seen Home Depot employees use the pallet jack (*id.* at 29-30). He was not sure exactly what happened to cause the pallet jack or its load to strike him while

they were riding the elevator, opining that “Israel” “probably did something improper” (*id.* at 29).

The property manager of the building, Jessica Lopez, employed by non-party management company Vornado Office Management, was informed of the accident the day it happened, and she viewed the surveillance video (NYSCEF Doc. No. 34 at 7-8, 16). She stated that the incident occurred in freight elevator RSE-4, to which only Home Depot and non-party Hutong Restaurant had access; non-party Otis Elevator was responsible for its maintenance (*id.* at 9-10).

According to a declaration of condominium ownership, the building known as 731 Lexington Avenue consists of one residential unit, one retail unit, and two office units (NYSCEF Doc. No. 30). The declaration provides that the “Retail Common Elements include Elevators RSE-1 and RSE-4” (*id.* at § 8.6). James Iervolino, authorized signatory for 731 Office, states in an affirmation that 731 Office owns the two office units and 731 Retail owns the retail unit, which Home Depot occupied (NYSCEF Doc. No. 31 at 2-3); Lopez testified to the same at deposition (NYSCEF Doc. No. 34 at 22-23). Iervolino asserts that 731 Office never possessed, occupied, controlled, managed, or worked in any portion of the retail unit, including elevator RSE-4, and never directed the work of any employee of the retail unit (NYSCEF Doc. No. 31 at 3-4).

Based on the above evidence, 731 Office met its burden of establishing, *prima facie*, that it had no involvement with the elevator, the loaded pallet jack, or the employee who operated the pallet jack, and thus owed no duty of care to plaintiff, a necessary element of negligence (*see Solomon v New York*, 66 NY2d 1026 [1985]; *Jackson v Board of Educ. of City of N.Y.*, 30 AD3d 57, 60 [1st Dept 2006]). No party has submitted any opposition to raise an issue of fact.

It is therefore

ORDERED that the motion of defendant 731 Office One LLC for summary judgment is granted and the complaint and any cross-claims are dismissed against it; and it is further


ORDERED that all other claims and cross-claims are severed and the balance of the action shall continue; and it is further

ORDERED that the Clerk of the Court shall enter judgment in favor of defendant 731 Office One LLC dismissing the claims and cross-claims made against it in this action, together with costs and disbursements to be taxed by the Clerk upon submission of an appropriate bill of costs; and it is further

ORDERED that, within 30 days from entry of this order, movant shall serve a copy of this order with notice of entry on the Clerk of the General Clerk's Office, who is hereby directed to reflect the above by appropriately marking the court's records; and it is further

ORDERED that such service upon the Clerk of the General Clerk's Office shall be made in accordance with the procedures set forth in the *Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases* (accessible at the "E-Filing" page on the court's website).

This constitutes the decision and order of the Court.

4/17/2026 DATE	 MATTHEW V. GRIECO, J.S.C.			
CHECK ONE:	<input type="checkbox"/> CASE DISPOSED	<input type="checkbox"/> DENIED	<input checked="" type="checkbox"/> NON-FINAL DISPOSITION	<input type="checkbox"/> OTHER
APPLICATION:	<input checked="" type="checkbox"/> GRANTED		<input type="checkbox"/> GRANTED IN PART	
CHECK IF APPROPRIATE:	<input type="checkbox"/> SETTLE ORDER		<input type="checkbox"/> SUBMIT ORDER	
	<input type="checkbox"/> INCLUDES TRANSFER/REASSIGN		<input type="checkbox"/> FIDUCIARY APPOINTMENT	<input type="checkbox"/> REFERENCE