

Daley v Wealty Trade Inc.
2026 NY Slip Op 31772(U)
April 16, 2026
Supreme Court, Kings County
Docket Number: Index No. 530724/2022
Judge: Sharon A. Bourne-Clarke
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At Part 44 of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse thereof, 320 Jay Street, Brooklyn, New York, on the 16th day of April, 2026.

PRESENT:
HON. SHARON A. BOURNE-CLARKE, J.S.C.

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SANDRA DALEY,

Plaintiff,

Index No.: 530724/2022

DECISION AND ORDER

- against -

WEALTHY TRADE INC. d/b/a WANISA HOME KITCHEN, RHYCHOSPORA INC., FORCE PEST CONTROL INC., and GREEN MACHINE ENTERPRISES, LLC,

Defendants.

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WEALTHY TRADE INC. d/b/a WANISA HOME KITCHEN, RHYCHOSPORA, INC.

Third Party Plaintiffs,

- against -

GREEN MACHINE ENTERPRISES, LLC,

Third Party Defendant.

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The following papers were read on this motion pursuant to CPLR 2219(a):

<u>Papers</u>	<u>NYSCEF Doc. Nos.</u>
Notice of Motion – Order to Show Cause – Exhibits and Affidavits Annexed	No(s). 81-99
Affirmation in Opposition	No(s). 128-132; 134-138
Replying Affidavits and Exhibits	No(s). 140

This matter having come before the Court is a Motion for Summary Judgment filed by defendant, FORCE PEST CONTROL, Inc., dated August 25, 2025 seeking an Order pursuant to CPLR §3212 granting FORCE PEST CONTROL, INC. summary judgment and dismissing the plaintiff's Complaint on the grounds that FORCE PEST CONTROL, INC. is an improper party to this suit, were not culpable for plaintiff SANDRA DALEY's injuries resulting from this accident and owed no duty to the plaintiff or any of the other parties in the suit. The Court is in receipt of opposition filed by both the plaintiff, SANDRA DALEY and WEALTHY TRADE INC. d/b/a WANISA HOME KITCHEN.

Background

This is an action to recover damages for personal injuries allegedly sustained by plaintiff Sandra Daley as a result of a trip-and-fall incident occurring on October 31, 2022, on Smith Street in Downtown Brooklyn. Plaintiff alleges that she tripped over a hose placed across the sidewalk outside Wanisa Home Kitchen Restaurant. The hose was purportedly connected to equipment used for the removal of cooking grease from the premises.

FORCE PEST CONTROL, INC., is alleged to have placed or been responsible for the hose. The record reflects, however, that Force previously maintained a grease removal division known as Force Restaurant Solutions, which operated under Force Solutions Group. Pursuant to an Asset Purchase Agreement dated May 19, 2019, that division was sold to GREEN MACHINE ENTERPRISES, LLC. Following the transaction, Force Restaurant Solutions ceased operations and filed a Certificate of Dissolution with the New York State Department of State.

Plaintiff commenced this action by filing a Summons and Complaint on October 24, 2022. Defendant Wealthy Trade Inc. interposed an Answer on January 13, 2023. Defendant Rhynchospora, Inc. filed an Answer on September 23, 2023. Defendant FORCE PEST CONTROL, INC. joined issue on October 25, 2023.

Motion for Summary Judgment (Motion Seq. No. 6)

Defendant FORCE PEST CONTROL, INC. moves for summary judgment pursuant to CPLR § 3212, seeking dismissal of the complaint and all cross-claims asserted against it on the ground that it was not involved in grease removal operations at the time of the accident and had no connection to the alleged hazardous condition.

In support of the motion, FORCE PEST CONTROL, INC relies, inter alia, upon the deposition testimony of its president, Louis Uccio. Mr. Uccio testified that the grease removal business was conducted through a separate division, Force Restaurant Solutions, which was part

of Force Solutions Group. He further testified that, pursuant to an Asset Purchase Agreement dated May 19, 2019, Green Machine Enterprises, LLC acquired all assets related to that division. Following the transaction, Force Restaurant Solutions ceased operations and filed a Certificate of Dissolution. Accordingly, Force Pest Control asserts that it was no longer engaged in grease removal services at the time of the subject incident and had no involvement at the premises on the date of loss.

In opposition to the instant motion, WEALTHY TRADE, INC., argues that FORCE PEST CONTROL, INC. has failed to meet its prima facie burden of demonstrating entitlement to judgment as a matter of law by arguing that the Asset Purchase Agreement does not specifically reference Force Pest Control and that no documentary evidence conclusively establishes that Force Restaurant Solutions was part of Force Solutions Group or otherwise affiliated with that FORCE PEST CONTROL, INC.

Plaintiff further asserts that, based upon an independent investigation, an unidentified individual associated with the restaurant allegedly indicated that the hose belonged to Force Pest Control and that the company continued to provide grease removal services. Plaintiff further asserts that their eyewitness places FORCE PEST CONTROL, INC. at the scene of the accident.

Analysis

A party moving for summary judgment pursuant to CPLR § 3212 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.” *Zuckerman v. City of New York*, 49 N.Y.2d 557, 562 (1980); *Napolitano v. Suffolk County Dep’t of Pub. Works*, 65 A.D.3d 676 (2d Dep’t 2009).

Once the movant has satisfied this burden, the burden shifts to the opposing party to produce evidentiary proof in admissible form sufficient to establish the existence of a triable issue of fact. *Zuckerman*, supra. “Mere conclusory assertions, speculation, or hearsay are insufficient to defeat a motion for summary judgment.” *Andre v. Pomeroy*, 35 N.Y.2d 361 (1974).

In premises liability actions, liability is predicated upon ownership, occupancy, control, or special use of the property, or the creation of the allegedly hazardous condition. “**Liability** for a dangerous condition on property is generally **predicated** upon **ownership, occupancy, control, or special use of the property**” *Donatien v Long Is. Coll. Hosp.*, 57 NYS3d 422 (2017). “In the absence of **ownership, occupancy, control, or special use**, a party generally ‘cannot be held liable for injuries caused by the dangerous or defective condition of the property.’” *Jeffrey v City of NY*, 194 AD3d 701 (2d Dept 2021) citing *Bartlett v City of New York*, 91 NYS3d 718 (2019); *Ruffino v New York City Tr. Auth.*, 865 NYS2d 674 (2008).

Here, FORCE PEST CONTROL, INC. has met its prima facie burden. Through the deposition testimony of its president, Louis Uccio, together with documentary evidence

concerning the 2019 Asset Purchase Agreement and subsequent dissolution of its grease removal division, Force has demonstrated that it was not engaged in grease removal services at the time of the subject incident and had no involvement with the premises. The uncontroverted evidence establishes that the business operations associated with grease removal were divested more than three years prior to the accident. Accordingly, Force has demonstrated that it neither created the alleged hazardous condition nor owed any duty to plaintiff arising from the condition complained of.

In opposition, neither plaintiff nor co-defendant Wealthy Trade Inc. has raised a triable issue of fact. The arguments advanced—that the Asset Purchase Agreement does not explicitly reference Force Pest Control, Inc., or that the relationship between the entities is insufficiently documented—are speculative and fail to rebut the competent evidence submitted by the movant. Notably, neither opposing party has produced any admissible evidence establishing that Force maintained a contractual relationship with Wanisa Restaurant at the time of the incident, or that it performed grease removal services at the location on the date of loss. The absence of contracts, invoices, service records, or any contemporaneous documentation is fatal to their position.

Further, plaintiff's reliance upon statements allegedly made by an unidentified individual is unavailing. Such statements constitute inadmissible hearsay and, without more, are insufficient to defeat a properly supported motion for summary judgment. Likewise, the purported eyewitness account placing Force at the scene is unsupported by sworn testimony or admissible proof and therefore lacks probative value.

In sum, the opposition fails to raise any triable issue as to whether Force owed a duty to plaintiff, created the alleged hazard, or was otherwise connected to the occurrence. To permit the claims against Force to proceed under these circumstances would be to rely on speculation rather than evidence, which is insufficient as a matter of law.

As such, the Motion for Summary Judgment by FORCE PEST CONTROL is hereby **GRANTED**;

It is hereby further **ORDERED** that the complaint and all crossclaims asserted against FORCE PEST CONTROL, INC. are dismissed.

This constitutes the Decision and Order of the Court.

Dated: April 16, 2026

ENTER:



HON. SHARON A. BOURNE-CLARKE, J.S.C.