

<b>Jackson v 1411 IC-SIC Prop., LLC</b>
2026 NY Slip Op 31787(U)
April 20, 2026
Supreme Court, New York County
Docket Number: Index No. 158062/2017
Judge: Leslie A. Stroth
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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. LESLIE A. STROTH PART 12M

Justice

-----X

LESLIE DEWAYNE JACKSON,
Plaintiff,

- v -

1411 IC-SIC PROPERTY, LLC, NINE WEST HOLDINGS,
INC. F/K/A JONES APPARAL GROUP, INC., BASIC
RESOURCES, INC., USA LEGWEAR, LLC.,

Defendant.

-----X

1411 IC-SIC PROPERTY, LLC
Plaintiff,

-against-

NINE WEST HOLDINGS, INC. F/K/A JONES APPARAL
GROUP INC., BASIC RESOURCES, INC., USA LEGWEAR
LLC

Defendant.

-----X

1411 IC-SIC PROPERTY, LLC
Plaintiff,

-against-

UNIVERSAL PROTECTION SERVICE LLC

Defendant.

-----X

NINE WEST HOLDINGS, INC. F/K/A JONES APPARAL
GROUP, INC., BASIC RESOURCES, INC., USA LEGWEAR,
LLC.

Plaintiff,

-against-

YKK (USA), ALLEGHANY CAPITAL CORPORATION,

INDEX NO. 158062/2017
MOTION DATE 03/04/2025
MOTION SEQ. NO. 004

DECISION + ORDER ON MOTION

Third-Party
Index No. 595066/2018

Second Third-Party
Index No. 595153/2021

Third Third-Party
Index No. 595760/2022

CHARLES RIVER ASSOCIATES

Defendant.

-----X

NINE WEST HOLDINGS, INC. F/K/A JONES APPARAL GROUP, INC., BASIC RESOURCES, INC., USA LEGWEAR, LLC.

Fourth Third-Party Index No. 595955/2022

Plaintiff,

-against-

STRUCTURE TONE INC., DVP ENTERPRISES, LLC D/B/A MICRON GENERAL CONTRACTOR, ICON INTERIORS, INC.

Defendant.

-----X

The following e-filed documents, listed by NYSCEF document number (Motion 004) 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250

were read on this motion to/for

JUDGMENT - SUMMARY

Plaintiff commenced this negligence action on January 8, 2017, after sustaining injuries when struck by a dolly while employed as a security guard at 1411 Broadway. Plaintiff states the incident causing his injuries happened on March 1, 2016. Third Third-Party Defendant, YKK (U.S.A.), incorrectly s/h/a YKK (USA), (“YKK”) maintains an office on the twenty-fifth floor of the property where Plaintiff was injured. It is unclear, from the filings made with the Court, where on the premises Plaintiff’s injury occurred.

In the third third-party complaint, Nine West Holdings, Inc. f/k/a Jones Apparel Group Inc. and Basic Resources, Inc. and USA Legwear LLC (“Third-Party Plaintiffs”) allege that YKK retained contractors to perform work in the space where Plaintiff was injured, and that they are entitled to common-law indemnification and contribution from YKK. YKK moves for summary judgment, stating that YKK did not have an ownership interest at the property, did not own, manage, maintain, or control the premises, and that YKK had no employees performing

work on the premises, other than in its own leased space on the twenty-fifth floor. YKK moves for summary judgment seeking dismissal of the third third-party complaint.

To prevail on a motion for summary judgment pursuant to CPLR § 3212, the movant must tender sufficient evidence to show the absence of any material issue of fact and the right to entitlement to judgment as a matter of law (*Alvarez v Prospect Hosp.*, 68 NY2d 320, 323 [1986]). Once the movant submits competent proof demonstrating that there is no substance to its opponent's claims and no disputed issues of fact, the opponent, in turn, is required to "lay bare [its] proof and come forward with some admissible proof that would require a trial of the material questions of fact on which [its] claims rest" (*Ferber v Sterndent Corp.*, 51 NY2d 782, 783 [1980]). The party opposing a motion for summary judgment is entitled to all favorable inferences that can be drawn from the evidence submitted (*see Dauman Displays, Inc. v Masturzo*, 168 AD2d 204, 205 [1st Dept 1990]).

A party claiming common law indemnification must show that the party is vicariously liable and that there is no proof of negligence or actual supervision on its part; and that the proposed indemnitor was either negligent or exercised supervision or control over the injury-producing work (*Naughton v City of New York*, 94 AD3d 1, 10 [1st Dept 2012] citing *McCarthy v Turner Const. Inc.*, 17 NY3d 369, 377-78 [2011]; *Reilly v DiGiacomo & Son*, 261 AD2d 318 [1999]).

"Contribution is generally available as a remedy when two or more tort-feasors share in responsibility for an injury, in violation of duties they respectively owe to the injured person" (*Trump Vil. Section 3, Inc. v New York State Hous. Fin. Agency*, 307 AD2d 891, 896 [1st Dept 2003] [internal citation omitted]). "In contribution, the tort-feasors responsible for plaintiff's loss share liability for it . . . [T]heir common liability to plaintiff is apportioned and each tort-feasor

pays his ratable part of the loss” (*Mas v Two Bridges Assocs.*, 75 NY2d 680, 690 [1990] [internal citation omitted]).

The third third-party complaint does not allege that there is a contract between Third Third-Party Plaintiffs and YKK. Rather, the third third-party complaint alleges that Third Third-Party Plaintiffs are entitled to common-law indemnification and contribution based on YKK willful, negligent, and/or careless acts, including by its employees and subcontractors (third third-party complaint, NYSCEF Doc. No. 237).

YKK argues that as a tenant in the building with no ownership interest in the building, YKK had no responsibility for the ownership, management, control, or maintenance of the property (Affirmation of YKK Senior Account Executive Julia Broder, NYSCEF Doc. No 238). Moreover, YKK posits that no one from YKK was in the building on the date of the accident, as YKK was subleasing a workspace in a different building for seven months after September 2015, including March 2016, when Plaintiff’s accident occurred (*id.*). However, YKK also states that to the extent that YKK had employees working on the day of the accident, they were confined to the YKK office space on the twenty-fifth floor (*id.*). Moreover, given that Plaintiff’s claim is based on negligence, not on violations of Labor Law, it is irrelevant whether YKK hired contractors (YKK’s motion, NYSCEF Doc. No. 233).

Third Third-Party Plaintiffs have not submitted an opposition. However, given the internal contradictions in YKK’s motion, YKK failed to establish, *prima facie*, lack of negligence. While the above demonstrates that YKK did not exercise supervision or control over the work that caused Plaintiff’s injury, it also indicates that “YKK had no employees performing any work or tasks in any part of the building other than in its own leased office space, located... on the 25th floor” (NYSCEF Doc. No. 238 ¶ 6). The evidence fails to demonstrate that YKK was

not present on the date of the accident, because while YKK's office on the twenty-fifth floor was being renovated at the time of the accident, YKK stated that employees performed work in YKK's space on the twenty-fifth floor. YKK has therefore failed to establish, *prima facie*, that YKK was not present on the day of the accident. In light of the above YKK's motion is denied.

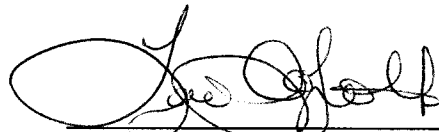
Accordingly, it is hereby

ORDERED that the motion for summary judgment of third third-party defendant YKK (U.S.A.), incorrectly s/h/a YKK (USA), seeking dismissal of the claims of common law indemnification and contribution asserted by third third-party plaintiffs, Nine West Holdings, Inc. f/k/a Jones Apparel Group Inc. and Basic Resources, Inc. and USA Legwear LLC, is denied.

The foregoing constitutes the decision and order of the Court.

4/20/2026

DATE



LESLIE A. STROTH, J.S.C.

CHECK ONE:

CASE DISPOSED  
GRANTED  
SETTLE ORDER  
INCLUDES TRANSFER/REASSIGN

DENIED

NON-FINAL DISPOSITION  
GRANTED IN PART  
SUBMIT ORDER  
FIDUCIARY APPOINTMENT

OTHER

REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: