

Canales v Noble Constr. Group, LLC
2026 NY Slip Op 31933(U)
May 4, 2026
Supreme Court, New York County
Docket Number: Index No. 161247/2019
Judge: Arlene P. Bluth
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**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. ARLENE P. BLUTH PART 14

Justice

-----X

JOSE N. CANALES,

Plaintiff,

- v -

NOBLE CONSTRUCTION GROUP, LLC, 350 EAST
HOUSTON LLC,

Defendant.

-----X

NOBLE CONSTRUCTION GROUP, LLC, 350 EAST
HOUSTON LLC

Plaintiff,

-against-

C & L CONCRETE CORP.

Defendant.

-----X

NOBLE CONSTRUCTION GROUP, LLC, 350 EAST
HOUSTON LLC

Plaintiff,

-against-

TEAM ELECTRIC INC., TEAM ELECTRIC CORP.

Defendant.

-----X

C & L CONCRETE CORP.

Plaintiff,

-against-

TEAM ELECTRIC INC., TEAM ELECTRIC CORP.

Defendant.

-----X

INDEX NO. 161247/2019
MOTION DATE N/A
MOTION SEQ. NO. 006

**DECISION + ORDER ON
MOTION**

Third-Party
Index No. 595182/2020

Second Third-Party
Index No. 595970/2021

Third Third-Party
Index No. 596029/2021

The following e-filed documents, listed by NYSCEF document number (Motion 006) 200, 201, 202, 203, 204, 205, 206, 209, 210, 211, 212, 214

were read on this motion to/for RENEW/REARGUE/RESETTLE/RECONSIDER.

Defendant Noble Construction Group and 350 East Houston LLC's ("Movants") motion to renew a decision from this Court dated March 17, 2025 is denied.

Background

In this Labor Law case, this Court granted plaintiff's motion for summary judgment more than a year ago with respect to a specific Industrial Code section (NYSCEF Doc. No. 190).

Plaintiff alleges that while trying to move a heavy electrical panel, a coworker tripped and fell on some rebar which caused the electrical box to fall on top of him, injuring his chest.

Movants now claim that they just got medical records that suggest that plaintiff misrepresented what happened because he told a medical provider just days after the accident that he injured his chest while lifting something heavy at work. They admit they did not realize that they failed to see these medical records until preparing for an appeal.

In opposition, plaintiff argues that the medical records do not conflict with plaintiff's account, who insists that he injured his chest the entire time. Plaintiff also observes that he sent an authorization for these records in 2020 and so there is no basis for renewal so long after the Court issued its prior decision.

In reply, Movants admits it was an "error" to not previously obtain these medical records and blames the COVID-19 pandemic for not timely processing the medical records.

Discussion

"When moving to renew, a party must show it made diligent efforts to obtain the evidence it now relies on, and provide a reasonable justification for failing to include it in the

prior motion. Renewal is granted sparingly and should not be used as a second chance freely given to parties who have failed to exercise due diligence in making their first factual presentation” (*Perretta v New York City Tr. Auth.*, 230 AD3d 428, 431-32, 217 NYS3d 30 [1st Dept 2024] [internal quotations and citations omitted]).

Here, there is no question that Movants failed to exercise reasonable diligence in obtaining and presenting the medical records they contend should compel the Court to revisit the March 2025 decision. There is no dispute that plaintiff forwarded an authorization for the subject medical records all the way back in July 2020 (*see* NYSCEF Doc. No. 211). And while the pandemic surely justified some delay, it is not a catch-all that can ameliorate every mistake or oversight. The fact is that the summary judgment motion in this case was fully briefed in March 2025, nearly five years after the authorizations were provided and long after the pandemic dissipated. Movants had more than enough opportunities to get these records and make arguments at the dispositive motion stage.

Moreover, the instant factual scenario is why renewal is only granted “sparingly.” Movants are asking this Court to consider hearsay accounts contained in a medical record outside the context of a summary judgment motion. While there may be some basis for the admissibility of the statements purportedly made by plaintiff, it is exceedingly difficult to evaluate the extent to which these snippets of a conversation materially differ from plaintiff’s account. Put another way, plaintiff insists he hurt his chest when the electrical panel fell on him and these records suggest he hurt his chest at work while lifting something heavy. Of course, plaintiff’s entire narrative is that he was moving an extremely heavy electrical box. So, there is an entirely plausible scenario in which these accounts are consistent and not a reason to grant renewal.

Although movants failed to question plaintiff at his deposition about this doctor’s note because they never processed the authorization, movants still may, subject to any trial court rulings, question plaintiff at trial about this issue.

Accordingly, it is hereby

ORDERED that the motion to renew is denied.

5/4/2026

DATE



ARLENE P. BLUTH, J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE