Lehman v Shelter Valley, LLC
2016 NY Slip Op 32376(U)
November 29, 2016
Supreme Court, Tioga County
Docket Number: 45479
Judge: Eugene D. Faughnan
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At a Motion Term of the Supreme Court of the State of New York held in and for the Sixth Judicial District at the Tioga County Courthouse, Owego, New York, on the 30th day of SEPTEMBER, 2016.

PRESENT: HON. EUGENE D. FAUGHNAN
Justice Presiding

STATE OF NEW YORK
SUPREME COURT : TIOGA COUNTY

SHERRILL LEHMAN, Individually and as Administratrix of the ESTATE OF GROVER LEHMAN, deceased,

Plaintiff,

-vs-

SHELTER VALLEY, LLC

Defendant.

SHELTER VALLEY, LLC

Third Party Plaintiff

-vs-

JIM RAY HOMES, INC.

Third Party Defendant.

DECISION

Index No.: 45479
RJI No.: 2015-0102-C

EUGENE D. FAUGHNAN, J.S.C.

Plaintiff, Sherrill Lehman ("Plaintiff"), individually, and as Administratrix of the Estate of Grover Lehman ("decedent"), filed this action against Shelter Valley, LLC (hereinafter "Shelter Valley"), seeking damages for decedent's wrongful death, pre-impact terror and conscious pain and suffering in connection with an accident occurring on May 15, 2014. On that date, decedent was employed by Third Party Defendant, Jim Ray Homes, and working at a mobile home community lot owned by Shelter Valley. Decedent and a co-worker, Glenn Hulbert, were performing activities in connection with placing a manufactured home at that location. A gust of wind caused the home to shift, slide off a jack holding the home, and land on decedent, who was working underneath it, resulting in his death. The complaint asserts causes of action for wrongful death under Labor Law §§ 200, 240(1), 241(6) and negligence.

After discovery, Plaintiff filed the instant Motion for Partial Summary Judgment on the Labor Law §240(1) claim.[1] Shelter Valley and Jim Ray Homes have both opposed the Motion for Partial Summary Judgment, and Jim Ray Homes has moved for Summary Judgment dismissing the Plaintiff's claims under Labor Law §240(1) and 241(6), as well as dismissal of the Plaintiff's claims for pre-impact terror and conscious pain and suffering. Shelter Valley joined in the Motion of Jim Ray Homes for dismissal.[2] Shelter Valley also filed a Motion for Conditional Indemnification against Jim Ray Homes. At oral argument on the Motions, the Court granted the Motion for Conditional Indemnification, and that will be the subject of a separate Order.

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[1]The materials received by the Court on the Motion and Cross Motions will be listed at the end of this Decision.

[2]Both the Defendant in the main action, and the Third Party Defendant have opposed Plaintiff's motion, and are referred to herein as "Defendants", or by their individual names.

FACTS

Some time before the accident, and prior to delivery of the home, Jim Ray Homes had constructed a gravel base, upon which the manufactured home would be placed. Decedent and Mr. Hulbert were assigned to finish "installing" or "setting" the home. In order to accomplish their task, the men had to use jacks to raise the home so that the tires on which it was delivered could be removed, and the home could be leveled. The men were at one end of the home, and decedent was operating the jack, while Mr. Hulbert was removing the tires. In order to raise and lower the jack, the decedent was under the home and laying on his stomach. The two men were close enough to talk to each other and coordinate the raising and lowering of the jack. Mr. Hulbert testified he noticed the home move in a gust of wind and when it stopped, he went to check on decedent, who was trapped underneath, apparently not having moved or made any noise prior to being pinned.

Subsequent to the accident, OSHA investigated and issued a notice of violation for failure to provide support blocking after the home had been raised with the jacks. The president of Jim Ray Homes signed an informal settlement agreement with respect to the OSHA violation.

Plaintiff filed a Summons and Complaint in February, 2015. Shelter Valley filed a Third Party Summons and Complaint against Jim Ray Homes in May, 2015. The parties continued with discovery, including depositions of Mr. Hulbert and James W. "Chip" Ray in April, 2016. Chip Ray is the owner of Shelter Valley, and president of Jim Ray Homes.

The parties appeared at oral argument on their respective Motions on September 30, 2016. The Court reserved decision on the Motions, except for the Motion for Conditional Indemnification, which was granted from the Bench.

Plaintiff characterizes the work being done as part of the construction or installation of the home, and is the type of elevation related risk covered by Labor Law §240(1). Jim Ray Homes contend that the work was simply placing an already manufactured home in its proper

position, and is not the type of work protected under Labor Law §240(1); that a question of decedent's culpability prevents a finding of summary judgment; that there are triable issues with respect to the alleged failure of a safety device; and further that Labor Law §241(6) do not apply because this was not "construction, demolition or excavation" work. Jim Ray Homes also argues that there is no evidence of pre-impact terror, or conscious pain and suffering, and those claims should be dismissed.

DISCUSSION

1) Plaintiff's Motion for Partial Summary Judgment under Labor Law §240(1)

When seeking summary judgment, the movant must make a *prima facie* case showing its entitlement to judgment as a matter of law, by offering evidence which establishes there are no material issues of fact. *Amedure v. Standard Furniture Co.*, 125 AD2d 170 (3rd Dept. 1987); *Bulger v. Tri-Town Agency*, 148 AD2d 44 (3rd Dept. 1989). Once this burden is met, the burden shifts to the respondent to establish that a material issue of fact exists. *Dugan v. Sprung*, 280 AD2d 736 (3rd Dept. 2001); *Sheppard-Mobley v. King*, 10 AD3d 70, 74 (2nd Dept. 2004) *aff'd as mod.* 4 NY3d 627 (2005); *Alvarez v. Prospect Hosp.*, 68 NY2d 320, 324 (1986); *Winegrad v. N.Y. Univ. Med. Ctr.*, 64 NY2d 851, 853 (1985). "When faced with a motion for summary judgment, a court's task is issue finding rather than issue determination *(see, Sillman v. Twentieth Century-Fox Film Corp.*, 3 NY2d 395, 404) and it must view the evidence in the light most favorable to the party opposing the motion, giving that party the benefit of every reasonable inference and ascertaining whether there exists any triable issue of fact" *Boston v. Dunham,* 274 AD2d 708, 709 (3rd Dept. 2000) *see, Boyce v. Vazquez*, 249 AD2d 724, 726.

Labor Law § 240 (1) provides in relevant part:

> "All contractors and owners and their agents, except owners of one and two-family dwellings who contract for but do not direct or control the work, in the erection, demolition, repairing, altering, painting, cleaning or pointing of a building or structure shall furnish or erect, or cause to be furnished or erected for the performance of such

> labor, scaffolding, hoists, stays, ladders, slings, hangers, blocks, pulleys, braces, irons, ropes, and other devices which shall be so constructed, placed and operated as to give proper protection to a person so employed."

The Court of Appeal has noted that "[i]t is settled that section 240 (1) 'is to be construed as liberally as may be for the accomplishment of the purpose for which it was thus framed'" *Rocovich v. Consolidated Edison Co*, 78 NY2d 509, 513 (1991) (citations omitted). Thus, the section has been interpreted as imposing absolute liability for a breach which has proximately caused an injury. *Id.*

"[T]he purpose of the strict liability statute is to protect construction workers not from routine workplace risks, but from the pronounced risks arising from construction work site elevation differentials, and, accordingly, [...] there will be no liability under the statute unless the injury producing accident is attributable to the latter sort of risk." *Runner v. New York Stock Exchange*, 13 NY3d 599, 603 (2009) *citing Rocovich, supra.* Absolute liability will only be imposed after a violation of the statute is found. *Narducci v. Manhasset Bay Assocs.*, 96 N.Y.2d 259 (2001).

To be sure, considerable litigation has ensued over the definition of the terms within the statute. *See, Joblon v. Solow*, 91 NY2d 457 (1998) (interpreting "altering" a structure). The underlying principle to guide courts is found in *Ross v. Curtis-Palmer-Hydro-Elec. Co.*, 81 NY2d 494 (1993), wherein the Court of Appeals noted that "Labor Law § 240 (1) was designed to prevent those types of accidents in which the scaffold, hoist, stay, ladder or other protective device proved inadequate to shield the injured worker *from harm directly flowing from the application of the force of gravity to an object or person.*" *Id.* at 501 (emphasis in original); *see, Runner, supra.*

As further observed by the Court of Appeals:

> While section 240 (1) does not purport to specify the hazards to be avoided, it does specify protective means for the hazards' avoidance. The types of devices which the statute prescribes "*shall be* so constructed, placed and operated" (emphasis added) as to

> avoid the contemplated hazards are: "scaffolding, hoists, stays, ladders, slings, hangers, blocks, pulleys, braces, irons, ropes, and other devices" (id.). Some of the enumerated devices (e.g., "scaffolding" and "ladders"), it is evident, are for the use or protection of persons in gaining access to or working at sites where elevation poses a risk. Other listed devices (e.g., "hoists", "blocks", "braces", "irons", and "stays") are used as well for lifting or securing loads and materials employed in the work.
>
> The various tasks in which these devices are customarily needed or employed share a common characteristic. All entail a significant risk inherent in the particular task because of the relative elevation at which the task must be performed or at which materials or loads must be positioned or secured. The contemplated hazards are those related to the effects of gravity where protective devices are called for either because of a difference between the elevation level of the required work and a lower level or a difference between the elevation level where the worker is positioned and the higher level of the materials or load being hoisted or secured. It is because of the special hazards in having to work in these circumstances, we believe, that the Legislature has seen fit to give the worker the exceptional protection that section 240 (1) provides. Consistent with this statutory purpose we have applied section 240 (1) in circumstances where there are risks related to elevation differentials (*see, e.g., Bland v Manocherian*, 66 NY2d 452, *supra; Zimmer v Chemung County Performing Arts*, 65 NY2d 513, *supra; Izrailev v Ficarra Furniture*, 70 NY2d 813; *Koenig v Patrick Constr. Corp., supra; Haimes v New York Tel. Co., supra*). In cases such as these, the proper "erection", "construction", "placement" or "operation" of one or more devices of the sort listed in section 240 (1) would allegedly have prevented the injury (see also, *DeHaen v Rockwood Sprinkler Co., supra*, at 354).

Rocovich, supra at 513-514.

The caselaw has evolved to identify "falling workers" and "falling objects." This case fits in the latter category, as it is the manufactured home which fell onto decedent. Defendants contend that this injury is not of the nature to fit within Labor Law §240(1) because the manufactured home was already completed, and the workers were simply delivering and placing it. No work was being done to the structure itself, and absent "a *significant* physical change to the configuration or composition of the building or structure" [*Joblon v. Solow*, 91 NY2d at 466 (1998) (emphasis in original)], it is not covered under the statute. Instead, argue Defendants, this situation is more akin to the delivery of furniture, and not an elevated risk hazard encompassed by Labor Law §240(1). Defendants also argue that the gust of wind caused the home to shift, also precluding summary judgment. Shelter Valley additionally urges that the shift was horizontal, and therefore, not an elevated related risk within the scope of Labor Law §240(1).

Plaintiff argues that the proper consideration to be utilized is the "general context of the work" for the entire project, and that this project was for all the activities associated with putting a home in this location. This was not routine maintenance which would be excluded from the statute, but rather, involved preparation of the site by placement of compacted gravel, and the use of anchors and stabilizing plates. Plaintiff characterizes it as a complicated project, of which this placement of the manufactured home, was one component. Plaintiff asserts that this job included erecting piers to support the home, leveling and stabilizing the home, as well as connecting electrical and plumbing lines. Plaintiff also contends that the home was raised by jacks, and that a jack failed to provide adequate protection, and that this is exactly the kind of elevation risk covered under the statute.

"[T]he single decisive question [in determining Labor Law § 240 (1) liability] is whether plaintiff's injuries were the direct consequence of a failure to provide adequate protection against a risk arising from a physically significant elevation differential". *Runner v New York Stock Exch., Inc.*, 13 NY3d at 603. In the instant case, although the height differential was slight, "[t]he elevation differential here involved cannot be viewed as *de minimis*, particularly given the weight of the object and the amount of force it was capable of generating, even over the course of a relatively short descent." *Id.* at 605. Here, the work involved a manufactured home, of great weight, attendant with great risk should it fall. Thus, the case clearly involves a substantial risk associated with a height differential.

The Court is also of the opinion, that given the liberal construction afforded to Labor Law §240(1) [*see e.g. Saint v. Syracuse Supply Co.*, 25 NY3d 117 (2015)], that the work did not "involve simple tasks, involving minimal work." *Id.* at 126. In *Saint*, the Court rejected defendant's argument that the inquiry is limited to the work the plaintiff was doing at the particular time. The Court stated "it is neither pragmatic nor consistent with the spirit of the statute to isolate the moment of injury and ignore the general context of the work" *Saint* at 125 *quoting Prats v. Port Auth. of N.Y. and N.J.*, 100 NY2d 878, 882 (2003).

In *Prats*, the injured plaintiff was inspecting air conditioning units and fell from a ladder.

Defendant in that case argued that plaintiff was not engaged in the in the "erection, demolition, repairing, altering, painting, cleaning or pointing of a building or structure" as listed in Labor Law §240(1). The defendant further argued that plaintiff was performing routine maintenance, i.e. inspecting the air conditioning unit. The Court found that the plaintiff's activities were part of a broader scope of work overhauling the air conditioning system. His employer was performing a contract to do the air conditioning work, and the contract required construction and alteration. Thus, even if plaintiff was not at that moment in the process of actually altering anything, he was performing duties ancillary to the enumerated activities. Therefore, even the inspection would come within the purview of the statute.

In this case, the overall project was to place a manufactured home at a pre-determined location. That location required that initially, gravel would be installed and compacted. The placement of the home would also require that 18 concrete block piers be erected on footer pads and adjusted so they would be at the same height. Electrical service, water and sewer facilities would also need to completed. The overall scope of the project, to have a fully operational and liveable home, constitutes "erection, repair or altering" under the statute.

Even if the Court were to look only at the nature of the work at the time of injury, it would still conclude that this falls under Labor Law §240(1). Defendants focus on the fact that the manufactured home was already in finished form long before its delivery to the site. Defendants argue that the work involved did not change the structure of the home at all, and simply involved removing the tires and placing the home; and the removal of the tires did not change the structure of the home. According to Defendants, the tires were not a permanent fixture and therefore, their removal did not constitute "alteration".

The Court concludes that the actual work being performed by the decedent and his co-worker was, in fact, an elevation risk covered under the statute. Although the tires may have been temporary, their removal clearly did change the structure of the home, from resting on the tires to being supported by concrete blocks. The statute doe not apply only to permanent changes. *See, Saint, supra.*

This work actually involved jacking up the home to install permanent concrete piers that would support the home. Certainly, while being hoisted on the jacks, there was an elevation related risk. In *Joblon, supra*, the Court held that "'altering' within the meaning of Labor Law § 240 (1) requires making a significant physical change to the configuration or composition of the building or structure." *Joblon* at 465. Routine maintenance and decorative modifications are not covered under the statute. *Id.* In *Saint*, the Court noted that the cases in which it had found the statute was inapplicable "involved simple tasks, involving simple work." Such is not the case here. The work being performed was not at all a simple task which could be undertaken by most anyone. It involved very specific knowledge and expertise, and it is not at all similar to the simple routine maintenance excluded from the statute. "[R]outine maintenance for purposes of the statute is work that does not rise to the level of an enumerated term such as repairing or altering." *Prats*, 100 NY2d at 882. This Court concludes that decedent's work was beyond "routine maintenance" or "decorative modification" and does rise to the level of one of the enumerated activities of the statute.

The work being performed was not just simple removal of tires, but included using jacks, setting supports, leveling and stabilizing the home. Given the liberal scope of the statute, the Court concludes this activity fits within the statute.

Viewed from the standpoint of the safety devices needed to protect the workers, the Court similarly concludes that this case fits within the statute. In *Rocovich*, the Court noted that "[w]hile section 240 (1) does not purport to specify the hazards to be avoided, it does specify protective means for the hazards' avoidance." *Rocovich*, 78 NY2d at 513. The types of devices are those which can prevent a worker from falling or from objects falling on workers. "In order to prevail on summary judgment in a section 240 (1) 'falling object' case, the injured worker must demonstrate the existence of a hazard contemplated under that statute 'and the failure to use, or the inadequacy of, a safety device of the kind enumerated therein'.... Essentially, the plaintiff must demonstrate that at the time the object fell, it either was being 'hoisted or secured' ... or 'required securing for the purposes of the undertaking...'" *Fabrizi v. 1095 Ave. of the Americas, LLC*, 22 NY3d 658, 662-663 (2014) (internal citations omitted).

In the present case, the home was surely "hoisted or secured" by the jacks placed under the home. Unfortunately, the jacks proved inadequate, for whatever cause. "The question of whether [a] device provided proper protection within the meaning of Labor Law § 240 (1) is ordinarily a question of fact, except in those instances where the unrefuted evidence establishes that the device collapsed, slipped or otherwise failed to perform its [intended] function of supporting the worker and his or her materials'" *Musselman v. Charles A. Gaetano Constr. Corp.*, 277 AD2d 691, 692 (3rd Dept. 2000) (citations omitted). Here, the device(s) clearly did not perform in a way to protect the workers. The Court concludes that the failure to adequately provide protection for the workers from the risks associated with the home being hoisted or secured, is a violation of Labor Law §240(1).

Shelter Valley and Jim Ray Homes also argue there was not a Labor Law §240(1) violation because the home apparently shifted due to a gust of wind. The Court finds that argument unavailing. The safety devices required under the statute must afford adequate protection against the elevation related risk, and that would include the risk that a gust of wind could compromise the safety device(s) being used to support a "hoisted" object. The safety devices in this situation were inadequate to afford that protection, whether the wind played a role or not. The safety devices, in order to be deemed adequate, would need to protect against the possibility of gusts of winds as it impacted the elevation-related risk, and prevent the home from falling. This is not a situation where the worker was struck by an object propelled through the air by wind, but rather a situation where the object being "hoisted" or "secured" (the home) fell, due to inadequate safety devices. The Court also rejects the argument from Shelter Valley that the decedent was struck by the home horizontally. The evidence is clear that the home fell and pinned decedent underneath it.

Nor is the Court persuaded by Defendants' argument that a question of fact is presented as to the decedent's culpability. In order to succeed on that defense, it would have to be shown that decedent's own negligence was the sole cause of the injury. "Liability under section 240 (1) does not attach when the safety devices that plaintiff alleges were absent were readily available at the work site, albeit not in the immediate vicinity of the accident, and plaintiff knew he was

expected to use them but for no good reason chose not to do so, causing an accident. In such cases, plaintiff's own negligence is the sole proximate cause of his injury." *Gallagher v. New York Post,* 14 NY3d 83, 88 (2010).

Mr. Hulbert and Mr. Ray both provided deposition testimony in this matter. State regulations with respect to the installation of manufactured homes require that there be a licensed installer responsible for the work. Mr. Ray was a certified installer, but was not present on site and the time of the accident. Neither Mr. Hulbert nor decedent were certified installers, and both were trained on the job with respect to the installation process. Decedent was not provided with any written information regarding installation. Jim Ray Homes had a trailer that contained various equipment such as jacking equipment, timbers and water level that could be utilized for the job. As described by Mr. Ray, the work would consist of placing concrete blocks under the manufactured home, then jack up one side of the home, remove the tires on one side, and then do the same on the other side. Mr. Hulbert testified that the two men had put blocking on the front side and were working on the taking the tires off the back side. Decedent was operating the jack as Mr. Hulbert removed the tires from the back side.

Mr. Ray also acknowledged that he had not issued any instruction to decedent to stop installation of the home if a high wind should occur. Mr. Hulbert also testified that he had not received any training or instruction about installation in windy conditions. His testimony also showed that the men had been using the cribbing under the home. Unfortunately, it appears that it was inadequate.

The men were not certified installers, and had learned only through on the job training. Both men were working on the same endeavor-to remove the tires and set the home down on the piers, and if there was negligence it would have been attributable to both of them, and not just decedent. Further, the evidence shows that they were actually using jacks and piers as they had been trained to do. Neither had been given any instruction as to installing in windy conditions, which was the situation on the date of the accident.

In this case, the testimony from Mr. Hulbert and Mr. Ray does not support any theory that decedent knowingly refused to utilize a safety device or failed to follow instructions as to the use of the safety device. There is no evidence that decedent "for no good reason" chose not to use available safety devices. Accordingly, decedent's actions cannot be considered the sole proximate cause of this accident, and therefore are no defense to the summary judgment motion.

Therefore, Plaintiff's motion for summary judgment under Labor Law §240(1) is GRANTED. Defendants' motion to dismiss Plaintiff's Labor Law §240(1) claim is DENIED.

2) Defendant's motion to Dismiss under Labor Law 241(6)

In light of the foregoing, the Labor Law § 241(6) claim could be deemed academic. *See DaSilva v. Everest Scaffolding, Inc.*, 136 AD3d 423 (1st Dept. 2016). The Court will nonetheless, address Defendants' motion under §241(6).

12 NYCRR 23-1.4(b)(13) provides that construction work includes "[a]ll work of the types performed in the construction, erection, alteration, repair, maintenance, painting or moving of buildings or other structures, whether or not such work is performed in proximate relation to a specific building or other structure and includes, by way of illustration but not by way of limitation, the work of hoisting, land clearing, earth moving, grading, excavating, trenching, pipe and conduit laying, road and bridge construction, concreting, cleaning of the exterior surfaces including windows of any building or other structure under construction, equipment installation and the structural installation of wood, metal, glass, plastic, masonry and other building materials in any form or for any purpose."

The regulation specifically includes moving a building or structure. Defendants' contend in opposition to the §240(1) claim that the work was not construction or altering of a home. In the Court's view even if it was not construction or altering, it would have to be moving a building or structure. The mobile home was moved from one location to the Shelter Valley

location. Thus, the Court concludes that it is construction work, and is covered under §241(6).

Jim Ray Homes argues that blocking and cribbing was placed under the home before the jack was even used (which is contradictory to its argument that decedent was the sole proximate cause of injury due to his failure to use available cribbing), and therefore Defendants contend that there can be no liability under this section. Jim Ray Homes further argues that the gust of wind was the cause of the accident. However, as noted in the previous section, the Court concludes that the safety devices proved inadequate, and that was the cause of the accident.

Accordingly, Defendants' motion to dismiss Plaintiff's Labor Law §241(6) claim is DENIED.

3) Defendant's motion to dismiss pre-impact terror and conscious pain and suffering claims

The Court first observes that Plaintiff conceded in her papers that she has no opposition to the dismissal of the pain and suffering claim. Therefore, the Court need only address the pre-impact terror claim.

The only eyewitness to the accident is Mr. Hulbert. He testified that he saw the home move and thought it might strike him. Decedent was lying on the ground manning the jack at the same time. Mr. Hulbert was unable to say if the decedent moved at all after the gust of wind, and the movement of the house.

On these facts, that Court concludes that Defendants' have not established, as a matter of law, that decedent was unaware of the impending accident. *See McKenna v. Reale*, 137 AD3d 1533 (3rd Dept. 2016). In fact, if Mr. Hulbert had at least some awareness of the movement of the house, then decedent may also have had some awareness. "[A] jury should be permitted to determine whether decedent was aware of impending serious physical injury or death, even if the

duration of such comprehension was limited." *Id.* at 1535.

Accordingly, Defendants' motion to dismiss Plaintiff's claim for pre-impact terror is DENIED. Defendants' motion to dismiss Plaintiff's conscious pain and suffering claim is GRANTED.

THIS CONSTITUTES THE DECISION OF THIS COURT.

Plaintiff is directed to provide the Court with a Proposed Order consistent with this Decision, on notice to the other parties, within 30 days of the date the Decision is signed.

Dated: November 29, 2016
Owego, New York

HON. EUGENE D. FAUGHNAN
Supreme Court Justice

Papers submitted on the Motions

1)	Plaintiff's Motion for summary judgment : And memo of law	6/13/16
2)	Defendant Shelter Valley's Motion for conditional Indemnification and in opposition to Plaintiff's Motion For summary judgment; and memo of law	6/24/16
3)	Third party Defendant Jim Ray Homes' Cross Motion and in opposition to Plaintiff's motion and for Summary judgment dismissing plaintiff's Labor Law §240(1) and 241(6) claims; and Affirmation in Opposition to Shelter Valley's Indemnification claim	9/14/16
4)	Defendant Shelter Valley's affidavit joining in Third party Defendant Jim Ray Homes' motion for Summary judgment	9/16/16
5)	Affidavit of Shelter Valley in reply to Jim Ray Homes' Opposition to Shelter Valley's Motion for conditional indemnification	9/18/16
5)	Plaintiff's reply affidavit and memorandum regarding their Summary Judgment Motion (to the opposition) And in opposition to the Cross Motions of Defendant Shelter Valley and Third party Defendant Jim Ray Homes	9/22/16
6)	Defendant Jim Ray Homes' reply affidavit to Plaintiff's Opposition and further support of Third party Defendant Jim Ray Homes' motion for Summary judgment	9/28/16