Villa v 980 Madison Owner LLC
2019 NY Slip Op 31927(U)
July 5, 2019
Supreme Court, New York County
Docket Number: 157562/2013
Judge: James E. d'Auguste
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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: PART 55

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RAONEL VILLA,

Plaintiff,

-against-

980 MADISON OWNER LLC and RFR HOLDING LLC,

Defendants.

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980 MADISON OWNER LLC and RFR HOLDING LLC,

Third-Party Plaintiffs,

-against-

JN CONTEMPORARY ART LLC, INTEGRATED PROJECT DELIVERY PARTNERS INC. and JHOFER ELECTRIC COMMUNICATIONS & CONTROLS CORP.,

Third-Party Defendants.

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Index No.: 157562/2013

Decision and Order
Motion Seq. No. 005

Hon. James E. d'Auguste:

This is an action to recover damages for personal injuries allegedly sustained by an electrician on August 2, 2013, when, while removing light fixtures at a construction site located at 980 Madison Avenue, New York, New York (the Premises), he fell from the top of a scaffold platform when it shifted.

In motion sequence number 005, defendants/third-party plaintiffs 980 Madison Owner LLC (Madison) and RFR Holding LLC (RFR Holding) move, pursuant to CPLR 3212, for summary judgment dismissing all claims against RFR Holding and the Labor Law § 200 claim against Madison and RFR Holding, as well as for summary judgment in their favor on their third-party

claims for contribution, common-law and contractual indemnification and breach of contract for failure to procure insurance against third-party defendant JN Contemporary Art LLC (JN).

JN cross-moves, pursuant to CPLR 3212, for summary judgment in its favor on its cross claims against third-party defendant Integrated Project Delivery Partners Inc. (Integrated).

In an order dated December 14, 2018, the Court granted partial summary judgment in plaintiff Raonel Villa's favor on the Labor Law § 240 (1) claim against Madison (motion sequence number 004). At that time, the Court did not grant summary judgment on the Labor Law § 240 (1) claim as against RFR Holding on the ground that an issue of fact existed as to the relationship of this defendant to the Premises. The court also did not grant summary judgment in plaintiff's favor on the Labor Law § 241 (6) claim against Madison and RFR Holding, which plaintiff predicated on an alleged violation of Industrial Code 12 NYCRR 23-5.18 because that alleged violation was not asserted in plaintiff's complaint or bill of particulars.

BACKGROUND

On the day of the accident, Madison owned the Premises where the accident occurred. JN leased the Premises from Madison for use as an art gallery. JN hired Integrated to serve as the general contractor on a project at the Premises, which involved the renovation of the gallery (the Project). Integration's work involved, among other things, installing new lighting fixtures. Integrated hired plaintiff's employer, non-party Jhofer Electric (Jhofer) to perform said light installations.

While it is alleged that RFR Holding was the managing agent for the Premises, in fact, pursuant to a management agreement with Madison, dated October 12, 2004, a separate entity, non-

party RFR Realty LLC (RFR Realty), was the actual managing agent for the Premises.

Plaintiff's Deposition Testimony

Plaintiff testified that on the day of the accident, he was employed as an electrician/laborer by Jhofer, the electrical subcontractor on the Project, and that, at times, he worked for Jhofer as its foreman. Plaintiff testified that he also worked under a Jhofer foreman named "Jeffer" while on the Project (plaintiff's tr at 53). On the morning of the accident, Jeffer instructed plaintiff and a co-worker named "Santiago" to remove all of the lamps and light fixtures from the ceiling (*id.* at 56). Plaintiff described the ceiling as being "[a]pproximately . . . 20 feet" high (*id.* at 63). In order to perform this work, plaintiff was supplied with a scaffold with wheels. Plaintiff could not state which entity constructed the scaffold. Plaintiff testified that no one on the Project ever gave him any instructions with regard to the use of the scaffold.

Plaintiff explained that at the time of the accident, he was standing on top of the scaffold's platform. The scaffold's platform stood approximately 10 feet above the ground. After plaintiff removed each light fixture, he handed it down to Santiago. Santiago then pushed the scaffold, with plaintiff still standing on its platform, to the next spot where the next fixture was to be removed.

After removing three of the fixtures, Santiago pushed the scaffold over to the fourth fixture, so that plaintiff could remove it. As plaintiff was still standing on the platform of the scaffold, and as he began removing the fourth fixture, he felt the "scaffold move and [he] fell to [backwards] to the ground" (*id.* at 72). Later, Jeffer told plaintiff that Santiago had caused the scaffold to move.

Plaintiff further testified that only Jeffer, Santiago and one person from Integrated were present in the accident location at the time of the accident. Plaintiff could not state the Integrated employee's role on the Project, and plaintiff never said more than "[h]ello" to him(plaintiff's tr at

53). Plaintiff also asserted that the Integrated employee did not have any conversations with plaintiff's foreman. ***Deposition Testimony of Michelle Molokotos (JN's Gallery Assistant)***

Michelle Molokotos testified that she was employed by JN as a gallery assistant on the day of the accident. She explained that JN is an art gallery, which occupies a suite on the third floor of the Premises. Joseph Nahmad is the owner of JN. At her deposition, Molokotos identified the lease for JN's use of the Premises (the Lease), which was dated April 10, 2013 and signed by Nahmad.

Molokotos explained that when she commenced her employment, JN was already occupying the gallery space. At that time, a renovation of the gallery was underway. She noted that Integrated was retained by Nahmad, pursuant to a contract (the JN/Integrated Contract) to "handl[e] all the construction for the renovation of the gallery" (Molokotos tr at 15). Integrated's work on the Project included installing new fixtures in the ceiling, and Nahmad paid it for said work.

Molokotos maintained that Madison did not perform any of the renovation work on the Project, nor did Madison pay any of the contractors. While employees for JN, including Nahmad, did visit the site periodically, she could not state whether or not Nahmad ever monitored the progress of the job. In addition, the building's superintendent, Gavin Pisano, had no involvement with any of the renovation work underway at the site.

Deposition Testimony of Brian McCaffrey (Integrated's Superintendent)

Brian McCaffrey testified that he served as Integrated's superintendent on the day of the accident. He explained that Integrated is a general contractor in the business of renovating apartments and stores. JN hired Integrated to demolish the existing space and then rebuild it to have "high ceilings and glass windows . . . [and] lot[s] of lights" (McCaffrey tr at 14). The actual

installation of the new lighting was performed by Jhofer, a subcontractor, pursuant to a subcontract (the Integrated/Jhofer Subcontract). Jhofer's superintendent "would show his guys what to do, he would also perform the work" (*id.* at 26). Notably, McCaffrey testified that Jhofer would bring their own scaffolding (*id.* at 27). He described it as "a yellow scaffold; two sides, like a wooden bench on the top with wheels" (*id.*).

In addition to himself, Integrated typically had one laborer at the site to keep it clean. Integrated had weekly site meetings with Integrated's project manager, the Project's architect and Nahmad. The only interactions that he had with the building personnel was with the building's superintendent. These interactions were limited to the coordination of material deliveries, garbage removal and answering general questions. The building superintendent did not supervise any of the work on the Project, and no building representatives ever attended any weekly meetings. If McCaffrey observed a worker engaging in what he thought was an unsafe practice, he had the authority to stop that person from doing said practice.

Deposition Testimony of Joseph McFadden (Property Manager for RFR Realty)

Joseph McFadden testified that he is employed by RFR Realty as a property manager. He explained that RFR Holding is different from RFR Realty, as RFR Holding is an ownership entity, and RFR Realty serves as the managing agent for the Premises. JN leased Suite 307 of the Premises for use as an art gallery. McFadden asserted that he only became aware of the fact that JN hired Integrated to change the lighting at the gallery a few weeks before construction commenced. He maintained that Madison and RFR Holding did not contract with either Integrated or Jhofer to perform said work, and that RFR Holding could only stop work for issues that affected the infrastructure or power supply of the Premises.

Deposition Testimony of Frank Spadafora (Senior Vice President of RFR Realty)

Frank Spadafora testified that he was employed by RFR Realty as its senior vice president of construction on the day of the accident. He explained that RFR Realty has a management agreement with Madison to manage the Premises. Spadafora's responsibilities included overseeing "any of the financials and construction that RFR Realty would be responsible for performing, whether it be for RFR Realty or a tenant, but solely for those" (Spadafora tr at 9). He maintained that RFR Realty did not monitor the work or make sure that it was going according to schedule, as those duties were left to the Project's architect.

Spadafora explained that prior to the signing of any leases with any tenants, RFR Realty would do minor alterations, such as making the walls smooth, putting in some lighting and painting the place, for marketing purposes. This "white box" work was performed by an entity called "TriStar Construction" (*id.* at 44). While he was aware that JN was making improvements to its space, he was not aware of what those improvements were.

DISCUSSION

"'The proponent of a summary judgment motion must make a prima facie showing of entitlement to judgment as a matter of law, tendering sufficient evidence to eliminate any material issues of fact from the case'" (*Santiago v Filstein*, 35 AD3d 184, 185-186 [1st Dept 2006], quoting *Winegrad v New York Univ. Med. Ctr.*, 64 NY2d 851, 853 [1985]). The burden then shifts to the motion's opponent to "present evidentiary facts in admissible form sufficient to raise a genuine, triable issue of fact" (*Mazurek v Metropolitan Museum of Art*, 27 AD3d 227, 228 [1st Dept 2006]; *Zuckerman v City of New York*, 49 NY2d 557, 562 [1980]; *DeRosa v City of New York*, 30 AD3d 323, 325 [1st Dept 2006]). If there is any doubt as to the existence of a triable fact, the motion for summary

judgment must be denied (*Rotuba Extruders v Ceppos*, 46 NY2d 223, 231 [1978]; *Grossman v Amalgamated Hous. Corp.*, 298 AD2d 224, 226 [1st Dept 2002]).

The Complaint Against RFR Holding and the Labor Law § 200 Claim

Madison and RFR Holding move for dismissal of the complaint against RFR and the Labor Law § 200 claim against both of them. As plaintiff does not oppose those parts of the motion which seeks to dismiss said claims, these unopposed claims are deemed abandoned (*see Kempisty v 246 Spring St., LLC*, 92 AD3d 474, 475 [1st Dept 2012]; *Genovese v Gambino*, 309 AD2d 832, 833 [2d Dept 2003] [where plaintiff did not oppose that branch of defendant's summary judgment motion dismissing the wrongful termination cause of action, his claim that he was wrongfully terminated was deemed abandoned]).

Thus, Madison and RFR Holding are entitled to dismissal of the complaint against RFR Holding and the Labor Law § 200 claim against both of them.

Claim for Contractual Indemnity Against JN

Madison and RFR Holding move for summary judgment in their favor on their third-party claim for contractual indemnification against JN.

Additional Facts Relevant To This Issue

Article 33, section 33.1 of the Lease between Madison and JN sets forth, in pertinent part, that

> "Tenant shall indemnify and save harmless the Indemnitees from and against (a) all claims of whatever nature against the Indemnitees arising from any act, omission (where Tenant has a legal obligation to act) or negligence of Tenant or Persons Within Tenant's Control (except to the extent such act, omission or negligence was at the direction of Landlord or any other Indemnitee), (b) all claims against the Indemnitees

> arising from any accident, injury or damage whatsoever caused to any person or to the property of any person and occurring in or about the Premises during the Term or Tenant's occupancy of the Premises (except to the extent caused by the act, omission or negligence of the Landlord or its agents, employees or contractors) . . . or (d) any breach, violation or nonperformance of any covenant, condition or agreement contained in this Lease to be fulfilled, kept, observed and performed by Tenant. This indemnity and hold harmless agreement shall include indemnity from and against all liability, fines, suits, demands, costs and expenses of any kind or nature (including, without limitation, reasonable attorneys' fees and disbursements) incurred in or in connection with any such claim or proceeding brought thereon, and the defense thereof"

(Madison and RFR Holding's notice of motion, exhibit G, the Lease, article 33, section 33.1, at pages 52-53).

In addition, the term "Indemnitees" is defined in the glossary of the Lease as to mean "Landlord, its trustees, partners, shareholders, officers, directors, employees and agents, the Manager . . . the Lessor and any Mortgagee(s)" (the Lease, article, at page 3).

"A party is entitled to full contractual indemnification provided that the 'intention to indemnify can be clearly implied from the language and purposes of the entire agreement and the surrounding facts and circumstances'" (*Drzewinski v Atlantic Scaffold & Ladder Co.*, 70 NY2d 774, 777 [1987], quoting *Margolin v New York Life Ins. Co.*, 32 NY2d 149, 153 [1973]; *see Tonking v Port Auth. of N.Y. & N.J.*, 3 NY3d 486, 490 [2004]; *Torres v Morse Diesel Intl., Inc.*, 14 AD3d 401, 403 [1st Dept 2005]).

With respect to contractual indemnification, the one seeking indemnity need only establish that it was free from any negligence and was held liable solely by virtue of its vicarious liability, and "'[w]hether or not the proposed indemnitor was negligent is a non-issue and irrelevant'" (*De La Rosa v Philip Morris Mgt. Corp.*, 303 AD2d 190, 193 [1st Dept 2003] [citation omitted]; *Keena v Gucci Shops*, 300 AD2d 82, 82 [1st Dept 2002]).

Initially, contrary to JN's assertion, "this indemnification provision does not require a finding of negligence on the part of the tenant before it is triggered" (*Hong-Bao Ren v Gioia St. Marks, LLC*, 163 AD3d 494, 496 [1st Dept 2018]). Here, the Lease requires that JN defend and indemnify both the owner and manager of the building, i.e., Madison and RFR Holdings, for claims arising from any act *or* omission *or* negligence of JN or persons within JN's control, as well as for all claims arising from any accident or injury caused to any person occurring at the Premises during the term of the Lease. As discussed previously, JN arranged for the subject lighting renovations at the gallery for its own benefit. As such, the accident arose from an act of JN, and the Lease's indemnification provision is triggered.

In addition, as movants assert, there is no evidence in the record to suggest that Madison and RFR Holding supervised or controlled any of the means and methods associated with plaintiff's work at the time of the accident, nor were they charged with providing the safety equipment for the Project. Plaintiff testified that he only took instructions from his Jhofer foreman. Molokotos testified that Madison did not perform any of the renovation work on the Project, nor did Madison pay any of the contractors. She also testified that the building's manager was not involved with any of the renovation work going on at the site. In addition, McFadden testified that neither Madison nor RFR Holding ever contracted with either Integrated or Jhofer for their work on the Project. Finally, McCafferty testified that not only were Jhofer's workers supervised by Jhofer's superintendent, Jhofer supplied the scaffold that failed to keep plaintiff from falling and becoming injured.

Thus, Madison and RFR Holding are entitled to summary judgment in their favor on the third-party claim for contractual indemnification against JN.

Claim for Breach of Contract for Failure to Procure Insurance Against JN

Madison and RFR Holding move for summary judgment in their favor on their third-party claim for breach of contract for failure to procure insurance against JN.

Additional Facts Relevant To This Issue

Article 12, section 12.4 of the Lease specifies, in pertinent part, that

> "(A) Tenant, at Tenant's sole cost and expense, shall obtain, maintain and keep in full force and effect during the Term commercial general liability insurance . . . in a form approved in New York State . . .. The limits of liability shall not be less than Five Million and 00/100 Dollars ($5,000,000.00) per occurrence, which amount may be satisfied with a primary commercial general liability policy of not less than $1,000,000.00 per occurrence/$2,000,000.00 general aggregate and an excess (or 'Umbrella') liability policy affording coverage, at least as broad as that afforded by the primary commercial general liability policy, in an amount not less than the difference between $5,000,000.00 and the amount of the primary policy. Tenant may carry any such insurance under a blanket policy, Landlord, the Manager, any Lessors and any Mortgagees whose names have been forwarded to Tenant shall be included as additional insureds in said policies and shall be protected against all liability arising in connection with this Lease, whether or not the Tenant is negligent or otherwise responsible for the additional insured's loss, liability or expense"

(Madison and RFR Holding's notice of motion, exhibit G, the Lease, article 12, section 12.4, at page 24).

In support of their motion, movants assert that, to date, JN has failed to provide them with proof of the required insurance coverage, as required by section 12.4 of the Lease. However, a review of the record reveals that, in fact, Zurich American Insurance Company is providing liability coverage to Madison and RFR Holdings in this case, as required by the Lease, and that Madison and RFR Holding have also demanded coverage on their behalf from Mt. Hawley Insurance Company, Integrated's liability carrier, which was required by a document entitled, Contractor /Vendor Indemnity and Insurance Provisions, dated June 6, 2013, between Madison and Integrated (the Integrated Indemnity and Insurance Document).

Thus, movants are not entitled to summary judgment in their favor on their third-party claim for breach of contract for failure to procure insurance against JN.

Claims for Contribution and Common-Law Indemnification Against JN

Madison and RFR Holding also move for summary judgment in their favor on their third-party claims for contribution and common-law indemnification against JN. "Contribution is available where two or more tortfeasors combine to cause an injury and is determined in accordance with the relative culpability of each such person" (*Godoy v Abamaster of Miami*, 302 AD2d 57, 61 [2d Dept 2003] [internal quotation marks and citations omitted]).

"To establish a claim for common-law indemnification, 'the one seeking indemnity must prove not only that it was not guilty of any negligence beyond the statutory liability but must also prove that the proposed indemnitor was guilty of some negligence that contributed to the causation of the accident'" (*Perri v Gilbert Johnson Enters., Ltd.*, 14 AD3d 681, 684-685 [2d Dept 2005], quoting *Correia v Professional Data Mgt.*, 259 AD2d 60, 65 [1st Dept 1999]; *Priestly v Montefiore Med. Center/Einstein Med. Ctr.*, 10 AD3d 493, 495 [1st Dept 2004]). "It is well settled that an owner who is only vicariously liable under the Labor Law may obtain full indemnification from the party wholly at fault" (*Chapel v Mitchell*, 84 NY2d 345, 347 [1994]).

As previously noted, no negligence on the part of movants caused or contributed to the accident. To that effect, they did not direct or supervise the work that caused the accident, nor were they responsible for providing plaintiff with safety devices to prevent him from falling while he performed his work.

That said, movants have not sufficiently established that JN was responsible for providing any such safety devices, or that any negligence on JN's part caused or contributed to the accident.

Thus, Madison and RFR Holding are not entitled to summary judgment in their favor on the third-party claims for contribution and common-law indemnification against JN.

Madison and RFR Holding's Third-Party Claims Against Integrated

Madison and RFR Holding also move for summary judgment on their third-party claims against Integrated, which sound in contribution, common-law and contractual indemnification and breach of contract for failure to procure insurance. Initially, it should be noted that although Madison and RFR Holding move for summary judgment in their favor on these third-party claims against Integrated, with the exception of the third-party claim for contractual indemnification against Integrated, they do not identify or put forth any arguments whatsoever in regard to the other third-party claims against Integrated.

Thus, Madison and RFR Holding are not entitled to summary judgment in their favor on the third-party claims against Integrated for contribution, common-law indemnification and breach of contract for failure to procure insurance.

Additional Facts Relevant to Claim for Contractual Indemnification Against Integrated

Section 1.1 of the Integrated Indemnity and Insurance Document between Madison and Integrated states, in pertinent part, that

> "To the fullest extent permitted by law [Integrated] agrees to indemnify and hold harmless [Madison and RFR Holding] . . . from and against all liability, claims, demands . . . on account of injury to persons . . . arising out of the performance, or lack of performance of '[Integrated]', including but not limited to any . . . negligent act or any willful misconduct . . .. [Integrated] shall at its own expense, defend any and all actions at law brought against '[Madison and RFR Holding]' based thereon and shall pay all attorney[s'] fees and all other expenses and promptly discharge any judgments arising therefrom"

(Integrated's notice of cross motion, exhibit E, the Integrated Indemnity and Insurance Document, ¶

1.1).

Here, in opposition to Madison and RFR Holding's motion, Integrated does not assert that the subject indemnity provision, which requires that Integrated indemnify JN for claims arising from its work, is applicable. Rather, Integrated argues that questions of fact exist as to whether Madison and RFR Holding were free from negligence because they were aware and approved of the fact that Integrated was retained by JN to perform work at the Premises, and because employees of Madison and RFR Holding periodically visited the site while construction was underway.

As discussed previously, there is insufficient evidence in the record to support any argument that movants' limited interactions in regard to the Project caused or contributed to the accident. In addition, as Integrated served as the general contractor for the work associated with the accident, i.e., the removal of the light fixtures, and, as it hired Jhofer, plaintiff's employer and the subcontractor hired to perform said work, the accident can be said to have arisen under Integrated's work on the Project.

Thus, pursuant to the requirements contained in the Integrated Indemnity and Insurance Document, Madison and RFR Holding are entitled to summary judgment in their favor on their third-party claim for contractual indemnification against Integrated.

JN's Cross Claim for Contractual Indemnification Against Integrated

JN cross-moves for summary judgment in its favor on its cross claim for contractual indemnification against Integrated.

Additional Facts Relevant To This Issue

JN hired Integrated to provide general construction services on the Project pursuant to a standard form AIA contract (the JN/Integrated Contract). In article 13 of the JN/Integrated Contract,

entitled "Protection of Persons and Property," it was set forth that Integrated

> "shall be responsible for initiating, maintaining and supervising all safety precautions and programs, including all those required by law in connection with performance of the Contract. [Integrated] shall take reasonable precautions to prevent damage, injury or loss to employees on the Work, the Work and materials and equipment to be incorporated therein, and other property at the site or adjacent thereto. [Integrated] shall promptly remedy damage and loss to property caused in whole or in part by [Integrated], or by anyone for whose acts [Integrated] may be liable"

(JN's notice of cross motion, exhibit D, the JN/Integrated Contract, article 13, at page 9). In addition, the JN/Integrated Contract provided that Integrated supervise and direct the work on the Project, as well as have control over the means and methods of that work.

Article 8, section 8.2 of the JN/Integrated Contract contained an indemnification provision (the JN/Integrated Indemnification Provision), which states, in pertinent part

> "To the fullest extent permitted by law, [Integrated] shall indemnify and hold harmless [JN] . . . from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the work, provided that such claim, damage, loss or expense is attributable to bodily injury . . . but only to the extent caused by the negligent acts or omissions of [Integrated], a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder"

(JN's notice of cross motion, exhibit D, the JN/Integrated Contract/the JN/Integrated Indemnification Provision, article 8, section 8.12, at page 7).

While it is true that plaintiff's work was solely supervised by his Jhofer supervisor, and that Jhofer supplied the scaffold that failed to keep plaintiff from falling, pursuant to the JN/Integrated Contract, Integrated was the entity responsible for supervising all safety precautions on the Project, also having control over the means and methods of the work performed on the Project. In addition, in the event that he observed an unsafe practice, McCafferty, Integrated's supervisor, had the authority

to stop work. Accordingly, at least a question of fact exists as to whether any negligence on the part of Integrated in carrying out its duties caused or contributed to the accident.

Thus, JN is not entitled to summary judgment in its favor on its cross claim for contractual indemnification against Integrated.

It should be noted that JN also moves for summary judgment in its favor on certain other cross claims that it asserted against Integrated. However, as JN fails to identify or make any arguments in regard to said cross claims against Integrated, JN is not entitled to summary judgment in its favor on said cross claims.

CONCLUSION

For the foregoing reasons, it is hereby

ORDERED that the part of defendants/third-party plaintiffs 980 Madison Owner LLC (Madison) and RFR Holding LLC (RFR Holding) motion (motion sequence number 005), pursuant to CPLR 3212, for summary judgment dismissing the complaint and all cross claims against RFR Holding is granted, and the complaint and all cross claims are dismissed as against RFR Holding, with costs and disbursements to RFR Holding as taxed by the Clerk of Court, and the Clerk is directed to enter judgment in favor of RFR Holding; and it is further

ORDERED that the part of the motion (motion sequence number 005), pursuant to CPLR 3212, for summary judgment dismissing the Labor Law § 200 claim against Madison is granted, and this claim is dismissed as against Madison; and it is further

ORDERED that the part of the motion (motion sequence number 005), pursuant to CPLR 3212, for summary judgment in their favor on the third-party contractual indemnification claims against third-party defendants JN Contemporary Art LLC (JN) and Integrated Project Delivery

Partners Inc. (Integrated) are granted, and the motion is otherwise denied; and it is further

ORDERED that JN's cross motion, pursuant to CPLR 3212, for summary judgment in its favor on its cross claims against Integrated is denied; and it is further

ORDERED that the remainder of the action shall continue.

This constitutes the decision and order of this Court.

Dated: July 5, 2019

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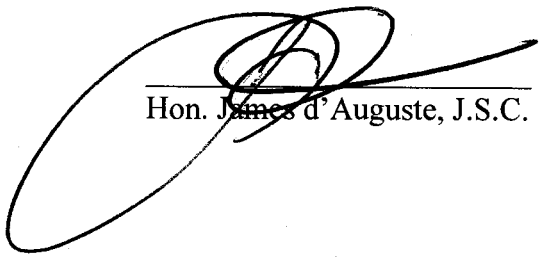

Hon. James d'Auguste, J.S.C.