SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: **HON. CAROL R. EDMEAD** **PART** **IAS MOTION 35EFM**

Justice

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INDEX NO. 151191/2014

CARLOS BALCAZAR,

Plaintiff,

MOTION DATE 06/08/2020, 06/09/2020

- v -

MOTION SEQ. NO. 005 006

COMMET 380, INC., SOLOW MANAGEMENT CORP., TAG 380 LLC,

DECISION + ORDER ON MOTION

Defendants.

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COMMET 380, INC., SOLOW MANAGEMENT CORP., TAG 380 LLC,

Third Party
Index No. 595256/2014

Third-Party Plaintiffs,

- v -

THE ERGONOMIC GROUP, INC., Q INTERNATIONAL COURIER, INC. d/b/a QUICK INTERNATIONAL COURIER

Third-Party Defendants.

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The following e-filed documents, listed by NYSCEF document number (Motion 004) 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 218, 223, 225, 238, 241, 244, 249, 250, 251, 252, 255, 258, 259

were read on this motion to/for JUDGMENT - SUMMARY.

The following e-filed documents, listed by NYSCEF document number (Motion 005) 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 219, 224, 237, 239, 242, 245, 247, 254, 256

were read on this motion to/for JUDGMENT - SUMMARY.

Upon the foregoing documents, it is

ORDERED that the branch of third-party defendant Ergonomic Group, Inc.'s ("ERGO") motion (Motion Seq. 005), pursuant to CPLR 3212, for summary judgment dismissing the third-party complaint of Commet 380, Inc. ("Commet 380"), Solow Management Corp. ("Solow") and Tag 380 LLC ("Tag 380'') (collectively, the "Owner Defendants") is granted to the extent that Owner Defendants' claims for contractual indemnification and breach of contract are dismissed; and

ORDERED that the branch of the ERGO's motion, pursuant to CPLR 3212, for summary judgment on its crossclaims against Q International Courier, Inc. d/b/a Quick International Courier ("Quick") for common law indemnification is denied; and it is further

ORDERED that the branch of Quick's motion for motion (Motion Seq. 006), pursuant to CPLR 3212, for summary judgment dismissing the third-party complaint of Owner Defendants is granted to the extent that Owner Defendants' claims for contractual indemnification and breach of contract are dismissed;

ORDERED that the branch of the Quick's motion, pursuant to CPLR 3212, for summary judgment dismissing ERGO's crossclaims for common law indemnification is denied; and it is further

ORDERED that the Clerk of the Court shall enter judgment accordingly; and it is further

ORDERED that the counsel for Owner Defendants shall serve a copy of this Order with Notice of Entry within twenty (20) days of entry on all parties.

MEMORANDUM DECISION

In this Labor Law action, the following motions are consolidated for disposition.

In Motion Seq. 005, third-party defendant Ergonomic Group, Inc. ("ERGO") moves, pursuant to CPLR 3212, for summary judgment: (i) dismissing the third-party complaint of Commet 380, Inc. ("Commet 380"), Solow Management Corp. ("Solow") and Tag 380 LLC ("Tag 380'') (collectively, the "Owner Defendants") against it; or (ii) in the alternative, granting its indemnification claim against Q International Courier, Inc. d/b/a Quick International Courier ("Quick"); and (iii) dismissing all crossclaims and/or counterclaims against it.

In Motion Seq. 006, third-party defendant Quick moves, pursuant to CPLR 3212, for summary judgment dismissing the third-party complaint of Owner Defendants and all crossclaims as against it in their entirety.

BACKGROUND FACTS

Plaintiff Carlos Balcazar sustained injuries when he fell from a ladder that shook when someone allegedly removed a tile close to the base of his ladder (NYSCEF doc No. 268, p. 89:18-23). The ladder fell to one side, while Plaintiff fell to the other side and was knocked unconscious (*Id.*, at p. 90:5-6; NYSCEF doc No. 269, p. 188:22-23).

On the day of the accident, Plaintiff was working as an electrician for Atlas-Acon Electric Service Corp. ("Atlas-Acon") on the fourth floor of a building owned by Tag 380 and managed by Solow. The land underneath is owned by Commet 380. Plaintiff's work was part of the project that took place after Investment Technology Group ("ITG") vacated several floors of the subject building. Particularly, ITG hired ERGO to facilitate the removal of computer racks and furniture from the spaces it vacated. ERGO, in turn, hired Quick and Atlas-Acon to provide the labor for the project.

For a fuller discussion of the facts, see this Court's decision of November 22, 2019 (the "November 2019 Decision").

Among other things, the November 2019 Decision granted the Owner Defendants' application for summary judgment dismissing Plaintiff's Labor Law § 200 and common-law negligence claims. The Court reasoned that Owner Defendants "had no supervisory control over Plaintiff's work and…no notice of the subject condition." In the same decision, the Court granted Plaintiff's application for partial summary judgment as to liability on his Labor Law § 240 (1) claim as against Commet 380 and Tag 380.

ERGO now moves for summary judgment dismissing the third-party complaint of Owner Defendants or, in the alternative, granting its indemnification claim against Quick. While ERGO, in its "Notice of Motion" ("Notice"; NYSCEF doc No. 264) states that ERGO is also seeking "dismiss[al] [of] the complaint of Plaintiff on the grounds that the undisputed facts on record establish that Plaintiff has not sustained a serious injury, and thus, the claims asserted [by] him are dismissible as a matter of law," ERGO does not advance arguments in support of this request in any of its moving papers. Owner Defendants and Quick oppose ERGO's motion, while Plaintiff opposes to the extent that ERGO's Notice seeks dismissal of his complaint.

Quick separately moves for summary judgment dismissing the third-party complaint of Owner Defendants and all crossclaims as against it. In the event that the Court declines to entertain the motion, Quick seeks the alternative relief that this Court sever Owner Defendants' third-party action.

DISCUSSION

Summary judgment is granted when "the proponent makes 'a prima facie showing of entitlement to judgment as a matter of law, tendering sufficient evidence to demonstrate the

absence of any material issues of fact,' and the opponent fails to rebut that showing" (*Brandy B. v Eden Cent. School Dist.,* 15 NY3d 297, [Ct App 2010], quoting *Alvarez v Prospect Hosp.*, 68 NY2d 320, 324 [Ct App 1986]). Once the proponent has made a prima facie showing, 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], citing *Zuckerman v City of New York*, 49 NY2d 557, 562 [Ct App 1980]; *see also 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 [Ct App 1978]; *Grossman v Amalgamated Hous. Corp.*, 298 AD2d 224, 226 [1st Dept 2002]). When the proponent fails to make a prima facie showing, the court must deny the motion, "'regardless of the sufficiency of the opposing papers'" (*Smalls v AJI Indus., Inc.*, 10 NY3d 733, 735 [Ct App 2008] quoting *Alvarez*, 68 NY2d at 324).

Here, since ERGO and Quick each seek summary judgment, each bears the burden of making a prima facie showing of entitlement to a judgment as a matter of law, tendering sufficient evidence to eliminate any material issues of fact from the case (*Bellinson Law, LLC v Iannucci*, 35 Misc 3d 1217[A], 951 N.Y.S.2d 84, 2012 NY Slip Op 50729[U] [Sup. Ct., N.Y. County 2012], aff d, 102 AD3d 563 [1st Dept 2013], *citing Winegrad v New York Univ. Med. Ctr.*, 64 NY2d 851, 853 [1985]). Once met, this burden shifts to the opposing party who must then demonstrate the existence of a triable issue of fact (*Alvarez, supra, Zuckerman v City of New York*, 49 N.Y.2d 557 [1980] and *Santiago v Filstein*, 35 AD3d 184 [1st Dept 2006]).

The function of a court in reviewing a motion for summary judgment "is issue finding, not issue determination, and if any genuine issue of material fact is found to exist, summary judgment must be denied" (*People ex rel. Cuomo v Greenberg*, 95 AD3d 474 [1st Dept 2012]). Where

"credibility determinations are required, summary judgment must be denied" (*Id.*). Thus, on a motion for summary judgment, the court is not to determine which party presents the more credible argument, but whether there exists a factual issue, or if arguably there is a genuine issue of fact (*DeSario v SL Green Management LLC*, 105 AD3d 421, [1st Dept 2013] [holding given the conflicting deposition testimony as to what was said and to whom, issues of credibility should be resolved at trial]).

Timeliness of the Third-Party Defendants' Dispositive Motions

Owner Defendants argue that third-party defendants' motions were filed beyond the deadline. According to Owner Defendants nothing could have prevented ERGO and Quick from timely moving for summary judgment prior to the discontinuance of the case as against ITG (NYSCEF doc No. 303, ¶ 33).

ERGO counters that Owner Defendants were in bad faith as they had signed the stipulation of discontinuance as against ITG on the same date that the Note of Issue was filed, but that Owner Defendants only filed a copy of said discontinuance in Court on the last day of filing summary judgment motions (NYSCEF doc No. 307, ¶ 5). Quick advances the same argument and further asserts that at that time the discontinuance as against ITG was signed, the action against Quick was no longer viable; thus, there was no reason for Quick to file a summary judgment motion (NYSCEF doc No. 309, ¶ 3). Quick requests that, in the event the Court declines to entertain its motion, the third-party action be severed from the main action.

The Court finds good cause for the seeming delay in the filing of Third-Party Defendants' respective summary judgment motions.

Initially, this case involved five third-party actions. ERGO and Quick were the third-party defendants in the fourth and fifth third-party actions, respectively. In the course of the proceedings,

several parties were dismissed from the action without prejudice. As relevant here, the stipulation of discontinuance as against ITG was signed on March 14, 2019 (NYSCEF doc No. 278), the same day that the Note of Issue was filed by Plaintiff. A copy of said stipulation was filed in Court on May 13, 2019.

However, on August 6, 2019, Owner Defendants filed a new third-party action against ERGO and Quick. At that time, the dispositive motions addressed in the November 2019 Decision were pending resolution by this Court. ERGO and Quick then filed their dispositive motions on January 9, 2020 and February 3, 2020, respectively.

This Part's Rules requires dispositive motions to be filed within 60 days of the filing of the note of issue, while CPLR 3212 (a) provides for a 120-day deadline. Thus, the deadline for filing dispositive motions under this Part's Rules would have been May 14, 2019, while the deadline under CPLR 3212 (a) would have been July 14, 2020.

It is true that Third-Party Defendants' dispositive motions were filed past these deadlines. However, it is clear from the record that it was impossible for the Third-Party Defendants to meet either of these deadline as they pre-dated the commencement of the third-party action they now seek to dismiss. Owner Defendants' argument that Third-Party Defendants could have filed motions for summary judgment before ITG was dismissed from the case deserves no merit. Owner Defendants entered into a stipulation of discontinuance with ITG on the same day the Note of Issue was filed. There would have been no reason for ERGO or Quick to file summary judgment motions thereafter as the claims against them were rendered moot. As Owner Defendants themselves admit in their papers, "the third-party action by ITG against [ERGO] who commenced a third-party action again Quick, both fell by the wayside once the action against ITG was discontinued without prejudice."

The Court also finds that the alternative relief of severance of the third-party action is improper. CPLR 1010 states that:

> "The court may dismiss a third-party complaint without prejudice, order a separate trial of the third-party claim or of any separate issue thereof, or make such other order as may be just. In exercising its discretion, the court shall consider whether the controversy between the third-party plaintiff and the third-party defendant will unduly delay the determination of the main action or prejudice the substantial rights of any party."

While severance of a third-party action is within the discretion of the court, "[it] is inappropriate absent a showing that a party's substantial rights would otherwise be prejudiced." (*Rothstein v Milleridge Inn, Inc.*, 251 AD2d 154 [1st Dept 1998], citing *Andresakis v Lynn*, 236 AD2d 252 [1st Dept 1997]). "To avoid the waste of judicial resources and the risk of inconsistent verdicts, it is preferable for related actions to be tried together," (*Id.*, *citing Shanley v Callanan Indus.*, 54 NY2d 52 [Ct App 1981]), such as this case where the issue is the respective liability of the defendants and the third-party defendants for the plaintiff's injury. Therefore, the Court declines to sever the third-party complaint from the main action as the claims here involve common questions of fact.

Owner Defendants' Claims for Common Law Indemnification and Contribution against ERGO and Quick

"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 at 65]); *see also Martins v Little 40 Worth Assoc., Inc.*, 72 AD3d 483, 484 [1st Dept 2010]).

In other words, a claim for common-law indemnification is actionable only where a party has been found to be "vicariously liable without proof of any negligence . . . on its own part" (*McCarthy v Turner Constr., Inc.,* 17 NY3d 369, 377-378 [2011]).

As Against ERGO

ERGO seeks dismissal of the Owner Defendants' claim for common law indemnification or contribution on the ground that "there is no evidence that ERGO was in anyway negligent" (NYSCEF doc No. 265, ¶ 42). ERGO maintains that Plaintiff's accident was not caused by a dangerous condition that ERGO created or of which it had notice (*Id.*, ¶ 43). Moreover, ERGO argues that it did not exercise any supervisory control over Plaintiff's work (*Id.*, ¶ 43).

Owner Defendants oppose ERGO's motion. They maintain that ERGO had the authority to control the work at the site as it hired Quick and Atlas-Acon to provide labor for the project (NYSCEF doc No. 303, p. 10). Owner Defendants also raise questions of fact such as whether ERGO should have coordinated the work of Quick and Atlas-Acon (*Id.*, p. 9).

The Court agrees with Owner Defendants. On the day of the accident, Quick and Atlas-Acon were working together. Atlas-Acon was in-charge of disconnecting all electrical cabling, while Quick was in-charge of removing the data center cabinets and all associated furniture. Plaintiff alleges that his accident arose when his ladder moved, bringing it into contact with a dangerous condition caused by workers opening holes in the floor (Quick[1]) near workers performing their work on ladders (Atlas-Acon). Thus, this Court opined in its November 2019 Decision that "parties responsible for scheduling [Quick's and Atlas'] work may be liable under section 200 for creating a dangerous condition".

[1] *See* Quick's Michael Larusso's deposition transcript (NYSCEF doc No. 273, 54:23 to 55:6); see also ERGO's Michael Kelly's v deposition transcript (NYSCEF doc No. 270, 35:13-24)

Here, ERGO admitted that it had a hand in scheduling work at the site. ERGO itself alleges that "any direction from [its] Mike Kelly would only be as to scheduling and areas of work to be completed." (NYSCEF doc No. 265, ¶ 40) Michael Larusso from QUICK testified that Mike Kelly would be involved in directing "what the plan was, what room [Quick] needed to get into, what electric needed to get dismantled" (NYSCEF doc No. 273, 32:8-13). He further confirmed that when he said that Mike Kelly "directed" Atlas-Acon employees, it is in the context of "scheduling and areas of work to be completed" (*Id.*, 35:21-25).

As there remain questions of fact as to whether ERGO could have coordinated the work of Quick and Atlas-Acon in a manner that could have prevented Plaintiff's accident, ERGO cannot claim, at this juncture, that it is free of any negligence. Therefore, ERGO cannot seek dismissal of Owner Defendants' indemnification and contribution claims at this time.

Both Owner Defendants and ERGO advance arguments as to whether ERGO acted as a general contractor with potential liability under Labor Law 240 (1). The Court finds this argument unpersuasive. Even if ERGO was not impleaded as a direct defendant by Plaintiff in his Labor Law 240 (1) claim, this does not prevent Commet 380 and Tag 380 from claiming indemnification from ERGO if ERGO is ultimately found to be negligent.

It is well-settled that an owner who is only vicariously liable under Labor Law 240 (1) may obtain full indemnification from the party who is wholly at fault (*Kelly v Diesel Constr. Div. of Carl A. Morse*, 35 NY2d 1 [Ct App 1974]; *Chapel v Mitchell*, 84 NY2d 345 [Ct App 1994]; *Tapia v 126 First Ave, LLC,* 282 AD2d 220 [1st Dept 2001]; *Kelly v City of New York*, 32 Ad3d 901 [2d Dept 2006]). In *Kelly v Diesel Constr. Div. of Carl A. Morse*, 35 NY2d 1 [Ct App 1974], the Court of Appeals explained that Labor Law 240 mandates "first instance liability on the owner or general contractor so that, with respect to the injured workman, the owner or general contractor cannot

escape liability for accidents caused by his subcontractor or supplier." However, the Court further explained that "under familiar common-law principles, full indemnification can be recovered from the actor who caused the accident (the active tort-feasor) and, where the cause is shared, contribution [applies]."

As Commet 380 and Tag 380 were previously found by this Court to be statutorily liable under Labor Law 240 (1), they can seek indemnification from the party ultimately found to be responsible for the accident, even is such party was not impleaded as a direct defendant (*see Parris v Shared Equities Co.*, 281 AD2d 174 [1st Dept 2001] [Defendant owners were found to be entitled to common-law indemnification from Atlas for their purely statutory liability pursuant to Labor Law § 240 (1) and § 241 (6) against third-party defendant who controlled the subject work site and the work in which plaintiff was engaged at the time of his accident.])

On the basis of the foregoing, the branch of ERGO's motion seeking summary judgment dismissing Owner Defendants' claim for common-law indemnification and contribution is denied.

As Against Quick

Quick seeks dismissal of the Owner Defendants' claim for common law indemnification or contribution as against it on the ground that there is no evidence establishing that it was negligent or that it created the dangerous condition alleged to have caused the accident (NYSCEF doc No. 283, ¶ 47). Quick maintains that its work was limited to removal of furniture and cabinetry and did not entail removal of floor tiles (*Id.*, ¶ 45). Quick further asserts that it did not do any protection work for the floor openings at the site because its Statement of Work with ERGO did not require the same (*Id.*).

Owner Defendants oppose, arguing that Quick is as equally liable as ERGO as Quick had an onsite manager as point of contact for ERGO during the life of the project (NYSCEF doc No.

303, ¶ 11). Moreover, Owner Defendants contend that there are questions of fact relating to Quick's liability, including whether Quick should have covered the floor openings which were left exposed once the server racks were removed (*Id.*, ¶ 29).

The Court finds for Owner Defendants. The photographs of the location of the accident show that there were several openings on the floor (NYSCEF doc No. 274, Exhibit "J") and Plaintiff alleges that it is through one of these openings that his ladder fell. However, at this juncture, there are questions of fact as to who created the opening that caused Plaintiff's accident and which party had responsibility over these openings.

The evidentiary record reflects that the removal of computer racks and furniture left previously-opened floor holes underneath them exposed (*see* NYSCEF doc No. 273, Quick's witness deposition, p. 64:14-16 ["Q: You just remove computer racks and leave the holes exposed, correct? A: Correct."]; p. 54:23 to 55:6 ["Q: By my count, and you can correct me if I'm wrong, there appear to be about 15 openings on the floor. A: sixteen. Q: Is it accurate that in those spaces were the cabinets or the prior racks previously? A: Some, and then some that were open previously."; *see also* NYSCEF doc No. 270, ERGO's witness deposition, p. 34:23 to 35:2 ["Q: Before the work was done, were these holes covered? A: Yes, so on tope of those holes, there would be racks of computers…"; see also NYSCEF doc No. 268, Plaintiff's deposition, p. 71:20-25 ["Q: If we remove the machine the hole is exposed; is that correct? A: Yes. Q: The hole was there; it was just being covered by a machine? A: Yes"]) Thus, while Quick claims that its work did not entail opening of new holes in the floor, the removal of computer racks and furniture left previously-opened holes exposed. Quick admitted that it did not cover the holes left exposed as its contract with ERGO did not require Quick to do any protection work on the site. However, the fact that Quick was not contractually required to provide protection work does not necessarily

mean that Quick could not have done so, especially in light of the dangerous conditions that the holes created to workers who were then working on their ladders.

As there remains questions of fact as to whether the hole which caused Plaintiff's accident arose out of Quick's work and whether Quick could have covered the holes to avoid a dangerous condition at the site, Quick is not entitled to a summary dismissal of Owner Defendants' claim for indemnification or contribution if Quick is ultimately found to be negligent.

Owner Defendants' Claim for Contractual Indemnification and Breach of Contract against ERGO and Quick

ERGO and Quick each move for summary judgment dismissing the Owner Defendants' claim for contractual indemnification and breach of contract as against them.

"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 also* Tonking *v Port Auth. of N.Y. & N.J.*, 3 NY3d 486, 490 [2004]).

"In contractual indemnification, the one seeking indemnity need only establish that it was free from any negligence and was held liable solely by virtue of the statutory liability" (*Correia v Professional Data Mgt.,* 259 AD2d 60, 65 [1st Dept 1999]; *see also Murphy v WFP 245 Park Co., L.P.*, 8 AD3d 161, 162 [1st Dept 2004]). Unless the indemnification clause explicitly requires a finding of negligence on behalf of the indemnitor, "[w]hether or not the proposed indemnitor was negligent is a non-issue and irrelevant" (*Correia,* 259 AD2d at 65).

Here, there is nothing on the record that indicates that Owner Defendants entered into any contract with ERGO or Quick, and Owner Defendants do not argue otherwise in their opposition papers. The record reflects that ERGO only had contracts with ITG and Quick (NYSCEF doc Nos.

271-272), while Quick only had a contract with ERGO (NYSCEF doc No. 272). These contracts do not make any mention of the Owner Defendants and neither do they contain any language requiring ERGO or Quick to indemnify Owner Defendants or procure an insurance for the latter's benefit. Neither do Owner Defendants here claim that they are beneficiaries of the contracts entered into by ERGO and Quick.

As Owner Defendants' claims for contractual indemnification and breach of contract are baseless, the branch of ERGO's and Quick's respective motions for summary judgment seeking dismissal of these claims is granted.

ERGO's Cross-Claim for Common Law Indemnification against Quick

As ERGO has not demonstrated, at this juncture, that it is free of any negligence that led to a defective condition being present on the subject premises, its branch of motion seeking summary judgement granting its common law crossclaims against Quick is denied. Since as discussed above, Quick has also not demonstrated it is completely free of negligence, it is also not entitled to dismissal of ERGO's crossclaims.

CONCLUSION

Based on the foregoing, it is hereby

ORDERED that the branch of third-party defendant Ergonomic Group, Inc.'s ("ERGO") motion (Motion Seq. 005), pursuant to CPLR 3212, for summary judgment dismissing the third-party complaint of Commet 380, Inc. ("Commet 380"), Solow Management Corp. ("Solow") and Tag 380 LLC ("Tag 380'') (collectively, the "Owner Defendants") is granted to the extent that Owner Defendants' claims for contractual indemnification and breach of contract are dismissed; and

ORDERED that the branch of the ERGO's motion, pursuant to CPLR 3212, for summary judgment on its crossclaims against Q International Courier, Inc. d/b/a Quick International Courier ("Quick") for common law indemnification is denied; and it is further

ORDERED that the branch of Quick's motion for motion (Motion Seq. 006), pursuant to CPLR 3212, for summary judgment dismissing the third-party complaint of Owner Defendants is

granted to the extent that Owner Defendants' claims for contractual indemnification and breach of contract are dismissed;

ORDERED that the branch of the Quick's motion, pursuant to CPLR 3212, for summary judgment dismissing ERGO's crossclaims for common law indemnification is denied; and it is further

ORDERED that the Clerk of the Court shall enter judgment accordingly; and it is further

ORDERED that the counsel for Owner Defendants shall serve a copy of this Order with Notice of Entry within twenty (20) days of entry on all parties.

HON. CAROL R. EDMEAD J.S.C.

12/28/2020
DATE

CAROL R. EDMEAD, J.S.C.

CHECK ONE:		CASE DISPOSED			X	NON-FINAL DISPOSITION	
		GRANTED		DENIED	X	GRANTED IN PART	OTHER
APPLICATION:		SETTLE ORDER				SUBMIT ORDER	
CHECK IF APPROPRIATE:		INCLUDES TRANSFER/REASSIGN				FIDUCIARY APPOINTMENT	REFERENCE