

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
FIRST DEPARTMENT

Diaz v. Rotavele El., Inc.

2026 NY Slip Op 03115 (1st Dep't 2026) · No. Index No. 157664/20; Appeal No. 6652; Case No. 2025-03132 ·
Decided May 19, 2026

SUMMARY

The Appellate Division, First Department reversed an order denying Mayore Estates LLC summary judgment on its contractual indemnification cross-claim against Rotavele Elevator, Inc. The court held that the indemnification provision was triggered because the plaintiff's injury arose from Rotavele's elevator work, but awarded only conditional indemnification because Mayore did not establish its freedom from negligence as a matter of law. The court also held that the lower court should have considered maintenance logs submitted in reply.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, First Department
WRITING FOR THE COURT	Moulton, J.P.; Scarpulla, J.; Kapnick, J.; Shulman, J.; Michael, J.
JURISDICTION	New York Appellate Division, First Department
DECIDED	May 19, 2026
DOCKET	Index No. 157664/20; Appeal No. 6652; Case No. 2025-03132
DISPOSITION	reversed
PROCEDURAL POSTURE	Mayore Estates LLC appealed from an order of Supreme Court, New York County, denying its motion for summary judgment on its cross-claim for contractual indemnification against Rotavele Elevator, Inc.
STANDARD OF REVIEW	Summary judgment is appropriate where the movant establishes entitlement to judgment as a matter of law and the opposing party fails to raise a triable issue of fact. The court reviewed the summary-judgment motion on the law.
PRECEDENTIAL VALUE	Published intermediate appellate decision; precedential under New York law, subject to correction and official-report publication procedures.
PARTIES	Mayore Estates LLC v. Rotavele Elevator, Inc., Chanel Diaz

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QUESTIONS PRESENTED

1. Whether Mayore established that Diaz's claim arose out of Rotavele's work so as to trigger the contractual indemnification provision.
2. Whether Rotavele raised a triable issue of fact concerning whether the elevator misleveling was caused by something outside the scope of its contractual duties.
3. Whether Mayore established its freedom from negligence as a matter of law, or was instead entitled only to conditional contractual indemnification.
4. Whether the maintenance logs submitted by Mayore in reply should have been considered where Rotavele did not object to them and argued for their admissibility.

HOLDINGS

1. The indemnification provision in Mayore's service agreement with Rotavele was triggered because Mayore established that Diaz's claim arose out of Rotavele's elevator-maintenance work.
2. The maintenance logs submitted by Mayore in reply should have been considered because Rotavele did not object to them and affirmatively argued for their admissibility in supplemental briefing.
3. Rotavele failed to raise an issue of fact because it offered no evidence that the misleveling was caused by anything outside the scope of its contractual duties.
4. Mayore was not entitled to unconditional contractual indemnification because it failed to establish its freedom from negligence as a matter of law; Rotavele was therefore entitled to conditional contractual indemnification.

KEY QUOTATIONS

“However, Mayore failed to establish its freedom from negligence as a matter of law, and thus Rotavele is entitled to conditional contractual indemnification” ([*1])

“The court should have considered the maintenance logs, which Mayore submitted in reply, because Rotavele never objected to them and, in fact, argued for their admissibility in supplemental briefing” ([*1])

FACTUAL BACKGROUND

Chanel Diaz alleged that she tripped and fell on August 27, 2019, because of a misleveled elevator. Mayore Estates LLC owned the building, and Rotavele Elevator, Inc. had a service agreement requiring it to maintain the elevator and indemnify Mayore for liability claims arising from the agreement's performance. Evidence showed that Rotavele serviced the elevators, including attempting to correct a misleveling problem on May 7, 2019. The

property manager acknowledged that there was no set protocol for reporting elevator complaints, while Diaz testified that she had complained about the misleveling approximately one month before the accident.

PROCEDURAL HISTORY

Supreme Court, New York County, denied Mayore's motion for summary judgment on its contractual-indemnification cross-claim. The Appellate Division reversed and granted the motion to the extent of awarding Mayore conditional contractual indemnification.

DISPOSITION

reversed

CASES CITED

- *Antoniak v. P.S. Marcato El. Co., Inc.*, 144 AD3d 407, 408 (1st Dep't 2016)
- *Strongbow Consulting Group LLC v. PricewaterhouseCoopers LLP*, 195 AD3d 532, 532 (1st Dep't 2021), lv dismissed and lv denied 38 NY3d 997 (2022)
- *Ortiz v. Fifth Ave. Bldg. Assoc.*, 251 AD2d 200, 201-202 (1st Dep't 1998)