

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
SECOND JUDICIAL DEPARTMENT

Quintero v. MBH Capital, LLC

2026 NY Slip Op 03010 (App. Div. 2026) · No. 2024-01815 · Decided May 13, 2026

SUMMARY

The Appellate Division, Second Department modified an order concerning a personal-injury action arising from a workplace accident. It held that the former property owner was not entitled to summary judgment on the Labor Law § 200 and common-law negligence claims sounding in premises liability, but was entitled to summary judgment on the Labor Law §§ 240(1) and 241(6) claims. The court also denied the plaintiff’s cross-motion concerning an untimely reply to a sanctions counterclaim, while affirming denial of the defendant’s request for a default judgment because no viable independent cause of action for sanctions existed.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Angela G. Iannacci, J.P.; Lara J. Genovesi, J.; Carl J. Landicino, J.; Laurence L. Love, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
DECIDED	May 13, 2026
DOCKET	2024-01815
DISPOSITION	other
PROCEDURAL POSTURE	Defendant Federal Brick Management Group, LLC appealed from an order denying its motion for summary judgment dismissing the personal-injury complaint and for leave to enter a default judgment on its sanctions counterclaim, and granting the plaintiff's cross-motion to deem his reply to the counterclaim timely served and to dismiss the counterclaim.
STANDARD OF REVIEW	Summary judgment is reviewed under the prima facie showing and triable-issue-of-fact standard. A party seeking summary judgment must establish entitlement to judgment as a matter of law; the opposing party must then raise a triable issue of fact.

PRECEDENTIAL VALUE	published
PARTIES	Federal Brick Management Group, LLC v. Fernando Vasquez Quintero

TOPICS

summary judgment construction law construction defects default judgment appellate procedure

PRACTICE AREAS

construction law personal injury real estate civil procedure appellate procedure

QUESTIONS PRESENTED

1. Whether Federal Brick was entitled to summary judgment dismissing the Labor Law § 200 and common-law negligence claims insofar as they sounded in premises liability.
2. Whether Federal Brick was entitled to summary judgment dismissing the Labor Law §§ 240(1) and 241(6) claims because it was not the owner or general contractor at the time of the accident.
3. Whether Quintero was entitled to have his untimely reply to the sanctions counterclaim deemed served nunc pro tunc and to summary judgment dismissing the counterclaim.
4. Whether Federal Brick was entitled to leave to enter a default judgment on its sanctions counterclaim.

HOLDINGS

1. A prior owner may remain potentially liable for a dangerous premises condition if the condition existed when the property was conveyed and the new owner lacked a reasonable opportunity to discover and remedy it. Federal Brick did not establish prima facie that this exception was unavailable because its affidavit did not address those facts.
2. The narrow prior-owner exception for premises liability does not extend to the statutory liability imposed by Labor Law §§ 240(1) and 241(6). A defendant is entitled to summary judgment on those claims when it establishes that it was neither the owner nor the general contractor at the time of the accident and the plaintiff fails to raise a triable issue of fact.
3. A party that defaults by failing to timely reply to a counterclaim must establish a reasonable excuse to vacate the default. Until the default is vacated, the court may not entertain a nonjurisdictional defense, and summary judgment is unavailable when issue has not been joined.
4. A court may not enter a default judgment on a counterclaim for sanctions where the asserted sanctions provision does not create an independent cause of action. New York does not recognize an independent cause of action for sanctions under CPLR 8303-a or 22 NYCRR 130-1.1.

KEY QUOTATIONS

“A narrow exception exists, however, and liability may be imposed [on a prior owner] where a dangerous condition existed at the time of the conveyance and the new owner has not had a reasonable time to discover

*the condition, if it was unknown, and to remedy the condition once it is known” ([*2])*

*“However, the "narrow exception" that allows for premises liability to be extended to prior owners of property does not apply to the statutory liability imposed by Labor Law §§ 240(1) and 241(6).” ([*2])*

*“New York does not recognize an independent cause of action for the imposition of sanctions under either CPLR 8303-a or Rules of the Chief Administrator of the Courts (22 NYCRR) § 130-1.1” ([*3])*

FACTUAL BACKGROUND

In April 2023, Quintero allegedly fell and was injured while working on property in Brooklyn. Federal Brick allegedly had owned and managed the property but had sold it to MBH Capital, LLC before the accident. Quintero asserted Labor Law and negligence claims against Federal Brick, while Federal Brick asserted a counterclaim for sanctions based on its contention that it no longer owned the property and that the claims against it were frivolous. Quintero failed to timely reply to the counterclaim.

PROCEDURAL HISTORY

Quintero commenced a personal-injury action alleging violations of Labor Law §§ 200, 240(1), and 241(6), and common-law negligence. Federal Brick answered and asserted a counterclaim for sanctions, after which Quintero failed to timely reply. The Supreme Court, Kings County, denied the relevant branches of Federal Brick's motion and granted Quintero's cross-motion. The Appellate Division modified the order by granting summary judgment on the Labor Law §§ 240(1) and 241(6) claims, denying Quintero's cross-motion regarding the counterclaim, and otherwise affirmed.

DISPOSITION

other

REMAND INSTRUCTIONS

The order is modified to grant Federal Brick's motion for summary judgment dismissing the Labor Law §§ 240(1) and 241(6) causes of action, deny Quintero's cross-motion to deem his reply to the counterclaim served nunc pro tunc and for summary judgment dismissing the counterclaim, and otherwise affirm the order insofar as appealed from.

CASES CITED

- Carey v Five Bros., Inc., 106 AD3d 938, 941
- Bittrolff v Ho's Dev. Corp., 77 NY2d 896, 898
- Mullen v Zoebe, Inc., 205 AD2d 597, 597
- Larrier v Gateway Sherman, Inc., 60 AD3d 913
- McKoy v Bagot, 245 AD2d 276
- Saint v Syracuse Supply Co., 25 NY3d 117, 124
- Ricottone v PSEG Long Is., LLC, 221 AD3d 1032, 1034

- GITSIT Solutions, LLC v Azcuy, 242 AD3d 956, 958
- Triple E. Constr., Inc. v Green-Citi Mgt., Inc., 238 AD3d 1192, 1193
- Newrez LLC v Jebco OGM Resources, 236 AD3d 1373, 1374
- Bank of N.Y. Mellon Trust Co., N.A. v Lagasse, 224 AD3d 800
- Elias v Serota, 103 AD2d 410, 417
- Pantanilla v Yuson, 237 AD3d 1213, 1214
- Nationstar Mtge., LLC v Gross, 201 AD3d 942, 944
- Barbetta v Facchini, 236 AD3d 623, 624-625
- Cerciello v Admiral Ins. Brokerage Corp., 90 AD3d 967, 968

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