



Powell v Helmsley Hotels, Inc.

2010 NY Slip Op 34072(U) (2010) | Cited 0 times | New York Supreme Court | February 16, 2010

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PRESENT: JAMES

POWELL, Index 103542/2009

HOTELS, HELMSLEY

SUPERVISORY CARLTON HOUSE, YORK HOTEL AUGUSTO LOPEZ, /24/09

Seq. 0 01 _____

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following papers, ·

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DEBRA A. Justice PART 59

NADIA No.: Plaintiff,

-v-

HELMSLEY INC., ENTERPRISES, INC., HELMSLEY MANAGEMENT INC., MANAGEMENT INC., INC., THE NEW HELMSLEY and Defendants Motion Date: 11

Motion No.:__ _

Motion No.: ____ _

The numbered 1 to 3 were read on this motion for summary judgment.

. NUMBERED Notice of Motion/Order to Cause -Affidavits __ 1 Answering Affidavits - Exhibits 2 Affidavits .. Exhibits 3 ' Cross-Motion: Cl Yes No

the foregoing papers, and upon

following oral argument, it is ordered that this motion to

dismiss pursuant to 32ll(a} (1) and (7) is GRANTED.

Plaintiff brings this action seeking damages for personal

injuries suffered claiming that on July 18, she was

assaulted by defendant Augusto Lopez, an employee of Helmsley

Hotels, Inc. at the New Helmsley Hotel, is located at



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212 East New York County (the "Hotel").

In her complaint, plaintiff alleges that as of July 18,

Check One: D Check appropriate: [* 1] Management Carlton Hotel, 140 Broadway New

York

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Management contest

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time I affidavit Compensation Board I do not submit any evidence that is irrefutable by defendants Helmsley Hotels, Inc., Helmsley Enterprises, Inc.,

Supervisory Inc., Inc., or

Associates ("the Helmsley Defendants"), owned the Hotel and

hired and supervised its employees. Plaintiff claims that the

Helmsley Defendants breached their duty to provide adequate

security and to secure the safety of persons at Hotel and

were negligent and careless in hiring, retaining and supervising

its employee, the defendant Lopez, which her injuries.

It is not disputed that at the time of the occurrence,

plaintiff was working at the Hotel, as an employee of an entity

known as Supervisory Corp. Nor plaintiff



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that the Workers' Compensation Board awarded damages for injuries suffered on July 18, while in the employ of the Hotel.

The Helmsley Defendants move to dismiss the complaint for failure to state a cause of action and on a defense based on the documentary evidence. They argue that plaintiff is barred from maintaining this action because the benefits she was awarded under the Workers Compensation Law are her exclusive remedy.

While she concedes that she was employed by Supervisory Management Corp. at the of the plaintiff argues that the and Workers' Decisions proffered by the ey Defendants not evidence that she was employed them.

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ORDERED defendants

and enter This court concurs with the Helmsley Defendants that when viewed in the light of irrefutable documentary evidence of the Workers Compensation of Insurance under which plaintiff was paid benefits and which the defendant Harley Associates of New York as the Insured, as well as the Helmsley Defendants, the complaint fails to state a cognizable claim against such defendants. Plaintiff's allegations that each of the Helmsley Defendants owned, controlled and managed the Hotel and supervised its which necessarily included plaintiff-- in view of the payments made that Workers' Compensation of Insurance, irrefutably establish that the Helmsley Defendants comprised a single integrated entity for the purposes of workers' compensation. Ramanarine v Memorial Center for and Allied Diseases, 281 218 Dept

The Helmsley Defendants have established a defense based on documentary evidence that plaintiff is relegated to her remedy under the Workers' Compensation Law.

Accordingly, it is

that the motion of Helmsley Hotels, Inc.,



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Helmsley Enterprises, Inc., Supervisory Management Corp., Harley

of New York Associates and the New York Hotel for a

judgment dismissing the complaint against such defendants is

GRANTED, t.he Clerk is directed to judgment dismissing

-3- [* 3] York

ORDERED against

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preUminf)ry Centre Street, 1New York

March 2010, 9:30

2010

JI ' I ·5 J.S.C. the complaint against defendants Helmsley Hotels, Inc., Helmsley

Enterprises, Inc., Supervisory Management Corp., Harley of New

Associates and the New York Helmsley Hotel; and it is

further

the action defendants Helmsley

Management, Inc. and Augusto Lopez is hereby severed and shall

continue against such defendants; and it is further

that remaining parties shall for a

conference at 111 York, New

on 16, AM.

This is the decision and Qrder of the court.



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Dated: February 16. ENTER:

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