

LAM Group v Anthony T. Rinaldi LLC
2026 NY Slip Op 50891(U)
June 5, 2026
Supreme Court, New York County
Robert R. Reed, J.
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Digest-Index Classification: Parties—Third-Party Practice--Impleader

LAM Group, LAM PEARL STREET HOTEL LLC, Plaintiff,

v

Anthony T. Rinaldi LLC D/B/A THE RINALDI GROUP, BAYPORT CONSTRUCTION CORP.,
NOBUTAKA ASHIHARA ARCHITECT P.C., GENE KAUFMAN ARCHITECT P.C., FRANK
SETA & ASSOCIATES LLC, Defendant.

BAYPORT CONSTRUCTION CORP., Plaintiff,

v

ALFRE AND SONS CONSTRUCTION INC., Defendant.

Supreme Court, New York County

Decided on June 5, 2026

Index No. 650465/2022

ROBERT R. REED, J.

[\[*1\]](#)

This is a breach of contract action involving property damage allegedly sustained as the result of defective installation of stucco façade on the exterior of a commercial building owned by plaintiffs LAM Group and LAM Pearl Street Hotel LLC.

All parties appeared for a Commercial Division Rule 24 conference on May 26, 2026. By letter submission dated May 18, 2026, counsel for defendant Anthony T. Rinaldi d/b/a The Rinaldi Group requests leave to file a third party complaint against a superstructure subcontractor named Parkside. Leave is requested under CPLR § 1007 [b]. Plaintiffs oppose the application.

Defendant Rinaldi asserts that during the deposition of its client, a superstructure contractor named "Parkside" was identified who may have caused or contributed to the claims asserted by plaintiffs in this action. Rinaldi now seeks to implead Parkside as a necessary party to this action. Rinaldi asserts that Parkside is a party whose work may have given rise to site conditions and is a party whose participation in this action is required for a fair determination of responsibility and liability in connection with the subject loss.

Plaintiffs oppose the application on the grounds that that impleader is late and will substantially delay the resolution of this case. Plaintiff alleges that Rinaldi was the project's general contractor and possessed all the relevant knowledge to determine who the project superstructure contractor was at any time prior to Rinaldi's deposition. According to plaintiff, Rinaldi was placed on actual notice as early as 2021 regarding irregularities and failures in the building's concrete substrate. Plaintiffs submit that they will be substantially prejudiced should [*2]Rinaldi be allowed to further delay the action and restart discovery based upon information it has known, or should have known, prior to the commencement of the suit.

CPLR § 1007 subsection [b] provides that "a defendant shall not file a third-party summons and complaint more than ninety days after serving its answer without an order of the court." The original bill was signed by Governor Hochul on February 13, 2026, and was made effective on April 18, 2026. The chapter amendments state that "this act shall take effect on the one hundred twentieth day after it shall have become a law and shall apply to all cases commenced on or after such date" (NY LEGIS 79 [2026], 2026 Sess Law News of NY Ch 79 (S. 8809) (McKINNEY'S)).

The summons and complaint were filed on January 31, 2022, before the enactment of the CPLR 1007 amendments (NYSCEF doc. no. 001). Therefore, Rinaldi's application for leave to file a third-party complaint will not be evaluated under this provision.

Before its 2026 amendment, CPLR 1007 permitted the filing of a third party action so long as the liability to be imposed upon a third party defendant arose from or was conditioned upon the liability asserted against a third party plaintiff in the main action (*BBIG Realty Corp. v Ginsberg*, 1985, 111 AD2d 91[1st Dept 1985][the liability sought to be imposed upon a third-party defendant must arise from or be conditioned upon the liability asserted against the third-party plaintiff in the main action]). In its prior incarnation, CPLR 1007 did not require court leave to file a third party complaint and provided no specific time limit for the initiation of a third-party claim.

Here, plaintiff alleges it retained an engineering firm to inspect the stucco façade. The report prepared by the firm purportedly concluded that the entire stucco system was systemically deteriorated and unstable due to rusted fasteners and water trapped behind the stucco with no drainage system. It is also alleged that "the concrete substrate was observed to be irregular with numerous offsets in plane

across the area of failure" (NYSCEF doc. no. 138). Defendant Rinaldi asserts that, during depositions, it was revealed that a subcontractor named Alfre installed Dryvit and fasteners to the underlying concrete superstructure substrate and steel reinforcement bars. It was purportedly learned at the deposition of defendant Rinaldi that the substrate was installed incorrectly, and that Parkside was the project's superstructure contractor that installed the substrate and bars (NYSCEF doc. no. 137).

Based upon the parties' factual representations to the court, arguable grounds exist to assert that defendants' liability for the allegedly defective façade "arose from," or was "conditioned upon," the installation of the concrete substrate underneath the façade by the project superstructure contractor. For this reason, defendant Rinaldi should, even at this relatively late date, be permitted to commence a third-party action against its subcontractors premised upon claims of negligent and/or defective construction work.

The court recognizes plaintiffs' frustration with defendants' failure to timely investigate liability, conduct research, engage in discovery, and abide by prior impleading deadlines. However, as previously stated, in its prior incarnation, CPLR 1007 did not impose specific deadlines for the filing and initiation of a third-party claim. Absent substantial prejudice, courts have found that delay in impleading will not cause prejudice where there remains an opportunity to conduct discovery (*Solano v Castro*, 2010, [72 AD3d 932](#) [2d Dept 2010][delay in impleading third-party defendant caused no prejudice where case was removed from trial calendar, giving third-party defendant opportunity to conduct discovery]). Here, the parties have not yet completed depositions and are not in any way under threat of impending trial.

It is preferable that related actions and claims be tried together, especially where, as here, there is an issue regarding respective liability of the defendant and third-party defendant for the plaintiff's injury (*Rothstein v Milleridge Inn, Inc.*, 1998, 251 AD2d 154, 155 [1st Dept 1998]). Doing so promotes consistency of results with respect to the determination of issues that are common to the main claim and the third-party claim and allows for the determination of primary and ultimate liability in one proceeding. Under the present circumstances, the filing of a third-party complaint is proper.

Accordingly, it is hereby

ORDERED that the application for leave to commence a third-party action is granted, and defendant Rinaldi shall file its third-party complaint within thirty (30) days of the date of this order.

DATE June 5, 2026

ROBERT R. REED, J.S.C.

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