

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

Bacchus v. 676 East 179 LLC

Bacchus, 2026 NY Slip Op 02442 (Supreme Court of the State of New York Appellate Division First Department 2026) · No. Index No. 35204/20; Appeal No. 6452; Case No. 2025-03503 · Decided April 23, 2026

SUMMARY

The Appellate Division, First Department modified an order granting partial summary judgment on a Labor Law § 241(6) claim arising from injuries caused by an unguarded grinder. The court held that the claims predicated on Industrial Code §§ 23-1.5(c)(3) and 23-9.2(a) could proceed, but dismissed the claim predicated on § 23-1.5(c)(1) because that provision was not sufficiently specific.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, First Department
WRITING FOR THE COURT	Manzanet-Daniels, J.P.; Kennedy, J.; González, J.; Pitt-Burke, J.; Rosado, J.
JURISDICTION	New York Supreme Court, Appellate Division, First Department
DECIDED	April 23, 2026
DOCKET	Index No. 35204/20; Appeal No. 6452; Case No. 2025-03503
DISPOSITION	other
PROCEDURAL POSTURE	Appeal from an order granting plaintiff partial summary judgment on portions of a Labor Law § 241(6) claim and denying defendant East 179's motion for summary judgment dismissing those portions.
STANDARD OF REVIEW	Review of the order on the law; summary judgment is appropriate where the movant establishes entitlement to judgment as a matter of law and no triable issue remains. The court also reviewed an unpreserved purely legal argument because it was determinative without requiring new facts.
PRECEDENTIAL VALUE	published
PARTIES	676 East 179 LLC et al. v. Azfal Bacchus

TOPICS

construction law

negligence

appellate procedure

preservation of error

PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether plaintiff was entitled to partial summary judgment on the Labor Law § 241(6) claim predicated on Industrial Code §§ 23-1.5(c)(3) and 23-9.2(a) based on the visibly missing grinder safeguard and the employer's notice.
2. Whether defendant 676 East 179 LLC was entitled to summary judgment dismissing the Labor Law § 241(6) claim on the ground that it lacked notice of the missing safeguard.
3. Whether Industrial Code § 23-1.5(c)(1) is sufficiently specific to serve as a predicate for Labor Law § 241(6) liability.
4. Whether the appellate court could consider East 179's unpreserved legal argument concerning the specificity of Industrial Code § 23-1.5(c)(1).

HOLDINGS

1. Plaintiff was properly granted partial summary judgment on the Labor Law § 241(6) claim insofar as it was predicated on Industrial Code §§ 23-1.5(c)(3) and 23-9.2(a).
2. East 179 was not entitled to dismissal merely by showing that it lacked notice of the missing grinder safeguard.
3. Industrial Code § 23-1.5(c)(1) is not sufficiently specific to serve as a predicate for Labor Law § 241(6) liability.

KEY QUOTATIONS

*“This provision is not sufficiently specific to serve as a predicate for Labor Law § 241(6) liability” ([*1])*

*“East 179, as the undisputed owner of the premises, was not entitled to dismissal by showing that it lacked notice of the missing safeguard.” ([*1])*

FACTUAL BACKGROUND

Plaintiff was using a grinder that visibly lacked a safeguard when it suddenly kicked back and injured him while he was cutting parts of a commercial boiler. His supervisor, Rudy Peters, was present and supervising the work, and plaintiff testified that the unguarded grinder was the only tool available for the task. The evidence supported an inference that plaintiff's employer had notice of the missing safeguard and negligently permitted plaintiff to use the grinder.

PROCEDURAL HISTORY

Supreme Court, Bronx County, entered an order on or about May 19, 2025, granting plaintiff partial summary judgment on the Labor Law § 241(6) claim predicated on Industrial Code §§ 23-1.5(c)(1) and (3) and 23-9.2(a), and denying East 179's motion for summary judgment as to those portions of the claim. The Appellate Division modified the order by denying plaintiff summary judgment and granting East 179 summary judgment as to the § 23-1.5(c)(1) theory, and otherwise affirmed.

DISPOSITION

other

CASES CITED

- Viruet v. Purvis Holdings LLC, 198 A.D.3d 587, 588 (1st Dep't 2021)
- Nicholson v. Sabey Data Ctr. Props., LLC, 205 A.D.3d 620, 621 (1st Dep't 2022)
- Cabral v. Rockefeller Univ., 222 A.D.3d 474, 475 (1st Dep't 2023)
- Becerra v. Promenade Apts. Inc., 126 A.D.3d 557, 558-559 (1st Dep't 2015)
- Rizzuto v. L.A. Wenger Contr. Co., 91 N.Y.2d 343, 351 (1998)
- Gasques v. State of New York, 15 N.Y.3d 869, 870 (2010)
- Bank of N.Y. Mellon v. Arthur, 125 A.D.3d 492, 492 (1st Dep't 2015)