

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

Carranza v. RXR Church-Div. Tower A. Holdings, LLC

Carranza, 2026 NY Slip Op 01844 (Supreme Court of the State of New York Appellate Division First Department 2026) · No. 2025-06099, 2025-06732 · Decided March 26, 2026

SUMMARY

The Appellate Division, First Department, unanimously affirmed orders granting plaintiff summary judgment on liability under Labor Law § 240(1) and § 241(6). The court held that plaintiff's testimony established that sheetrock fell from an A-frame cart after it caught on debris, while defendants' hearsay incident report, affidavit, logs, and expert opinion did not raise a triable issue of fact.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                              |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of the State of New York, Appellate Division, First Department                                                                                                                                                                                                 |
| WRITING FOR THE COURT | Manzanet-Daniels, J.P.; Scarpulla, J.; Kapnick, J.; Higgitt, J.; Rosado, J.                                                                                                                                                                                                  |
| JURISDICTION          | Supreme Court of the State of New York, Appellate Division, First Department                                                                                                                                                                                                 |
| DECIDED               | March 26, 2026                                                                                                                                                                                                                                                               |
| DOCKET                | 2025-06099, 2025-06732                                                                                                                                                                                                                                                       |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                                     |
| PROCEDURAL POSTURE    | Plaintiff moved for summary judgment on liability under Labor Law §§ 240(1) and 241(6). Supreme Court granted the motion. Defendants moved for leave to reargue, and Supreme Court granted reargument but adhered to its original decision. Defendants appealed both orders. |
| STANDARD OF REVIEW    | Whether the moving party established entitlement to summary judgment as a matter of law and whether the opposing party raised a triable issue of fact.                                                                                                                       |
| PRECEDENTIAL VALUE    | Published New York appellate opinion                                                                                                                                                                                                                                         |
| PARTIES               | RXR Church-Division Tower A. Holdings, LLC, RXR Realty LLC, RXR Property Management LLC, LRC Construction LLC v. Rosita Elvira Martinez Carranza                                                                                                                             |

## TOPICS

construction law

summary judgment

hearsay

evidence

appellate procedure

## PRACTICE AREAS

construction law

civil procedure

appellate procedure

evidence

## QUESTIONS PRESENTED

1. Whether plaintiff was entitled to summary judgment on liability under Labor Law § 240(1) based on the elevation-related accident involving the sheetrock and A-frame cart.
2. Whether defendants' hearsay incident report, non-eyewitness coworker affidavit, daily logs, and expert report raised a triable issue of fact sufficient to defeat summary judgment.
3. Whether plaintiff waived her hearsay objection by submitting the incident report with her summary-judgment motion.
4. Whether Supreme Court properly adhered to its original decision after granting defendants leave to reargue.
5. Whether the court needed to decide plaintiff's Labor Law § 241(6) claim after affirming summary judgment under Labor Law § 240(1).

## HOLDINGS

1. Plaintiff established prima facie entitlement to summary judgment on liability under Labor Law § 240(1) because the weight and height of the sheetrock created an elevation differential within the statute's protection, and the inadequate protective device proximately caused the accident.
2. Defendants did not raise a triable issue of fact because the incident report constituted insufficient hearsay and the coworker affidavit was not based on personal observation.
3. The alleged inconsistencies concerning the accident location and the trades working on the floor were immaterial and did not raise a triable issue of fact because, under either version of events, the absence of an adequate protective device proximately caused plaintiff's injuries.
4. The expert report asserting that plaintiff's accident was a physical impossibility was insufficient to defeat summary judgment because the expert did not inspect the allegedly involved cart or mini-dumpster or examine the debris that allegedly caused the cart to flip.
5. Plaintiff did not waive her hearsay objections by submitting the incident report because she challenged, rather than relied upon, the hearsay statements in the report.
6. The arguments concerning plaintiff's Labor Law § 241(6) claim were academic because plaintiff was entitled to summary judgment on liability under Labor Law § 240(1).

## FACTUAL BACKGROUND

Plaintiff testified that she was transporting eight pieces of sheetrock on an A-frame cart at the direction of the site foreman when the cart caught on debris and flipped, causing the sheetrock to fall on her. The sheetrock

pieces were approximately one inch thick and weighed about ten pounds each. Defendants relied on a delayed incident report, a coworker's non-eyewitness affidavit, daily logs, and an expert report asserting that the accident was physically impossible. The court found that none of those submissions raised a triable issue of fact.

## PROCEDURAL HISTORY

Supreme Court, Bronx County, granted plaintiff's motion for summary judgment on liability under Labor Law § 240(1) and under Labor Law § 241(6) based on Industrial Code § 23-1.7(e)(1) and (2). The court later granted defendants' motion for leave to reargue but adhered to its original decision. The Appellate Division, First Department, unanimously affirmed both orders without costs.

## DISPOSITION

affirmed

## CASES CITED

- Touray v. HFZ 11 Beach St. LLC, 180 AD3d 507, 507 (1st Dept 2020)
- Marrero v. 2075 Holding Co. LLC, 106 AD3d 408, 409 (1st Dept 2013)
- Mayorquin v. Carriage House Owner's Corp., 202 AD3d 541, 542 (1st Dept 2022)
- Santos v. Monadnock Constr. Inc., 209 AD3d 598, 599 (1st Dept 2022)
- Khaimov v. City of New York, 199 AD3d 455, 456 (1st Dept 2021)
- Fanning v. Rockefeller Univ., 106 AD3d 484, 485 (1st Dept 2013)

## OPINION

### PER CURIAM.

Carranza v RXR Church-Div. Tower A. Holdings, LLC ( 2026 NY Slip Op 01844 ) Carranza v RXR Church-Div. Tower A. Holdings, LLC 2026 NY Slip Op 01844 Decided on March 26, 2026 Appellate Division, First Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This opinion is uncorrected and subject to revision before publication in the Official Reports.

Decided and Entered: March 26, 2026 Before: Manzanet-Daniels, J.P., Scarpulla, Kapnick, Higgitt, Rosado, JJ. Index No. 807623/21|Appeal No. 6223-6224|Case No. 2025-06099, 2025-06732| [\*1]Rosita Elvira Martinez Carranza, Respondent, v RXR Church-Division Tower A. Holdings, LLC, et al., Appellants, City of New Rochelle Corporation for Local Development, et al., Defendants.

Rawle & Henderson, LLP, New York (Beth S. Gereg of counsel), for appellants. Chirico Law PLLC, Brooklyn (Vincent Chirico of counsel), for respondent. Order, Supreme Court, Bronx County (Shawn T. Kelly, J.), entered on or about June 3, 2025, which, to the extent appealed from as limited by the briefs, granted plaintiff's motion for summary judgment on liability on her Labor

Law § 240(1) claim and her Labor Law § 241(6) claim based on a violation of Industrial Code § 23-1.7(e)(1) and (2), unanimously affirmed, without costs.

Order, same court and Justice, entered on or about September 16, 2025, which, to the extent appealed from as limited by the briefs, granted the motion of defendants RXR Church-Division Tower A. Holdings, LLC, RXR Realty LLC, RXR Property Management LLC, and LRC Construction LLC for leave to reargue plaintiff's motion, and upon reargument, adhered to its original decision, unanimously affirmed, without costs.

Plaintiff established prima facie entitlement to summary judgment on her Labor Law § 240(1) claim through her testimony that she was transporting sheetrock on an A-frame cart, as the site foreman had instructed her, when the cart got caught on debris and flipped over, causing the sheetrock to fall on her.

In light of the weight and height of the sheetrock on the A-frame cart — 8 pieces of sheetrock, approximately 1 inch thick and weighing around 10 pounds each — the elevation differential fell within the purview of the statute ( see *Touray v HFZ 11 Beach St. LLC*, 180 AD3d 507, 507 [1st Dept 2020]).

In opposition, defendants failed to raise a triable issue of fact. Defendants place much reliance on an incident report stating that plaintiff was pushing a mini-dumpster, not an A-frame cart, when the incident occurred, thus suggesting that she was cleaning up debris rather than delivering sheetrock.

However, the report was prepared more than six weeks after the incident, and there is no evidence establishing that the people who were identified as witnesses to the incident actually did witness it. Plaintiff testified that she was alone when the incident occurred, and that she never interacted or spoke with the people named in the report as witnesses.

Under these circumstances, the hearsay incident report is insufficient to raise a triable issue of fact ( see *Marrero v 2075 Holding Co. LLC*, 106 AD3d 408, 409 [1st Dept 2013]). In addition, plaintiff's coworker, who provided an affidavit, admitted she did not witness the accident, and rather than stating that she personally saw plaintiff pushing a mini-dumpster, she simply averred she was "aware" that plaintiff had been pushing a mini-dumpster.

Defendants' submission of the daily log reports to highlight inconsistencies in plaintiff's testimony also was not sufficient to raise an issue of fact. The alleged inconsistencies, which concerned the accident location and the trades that were working on the floor where plaintiff was injured, were immaterial to defendants' liability under Labor Law § 240(1) because under either parties' version of events, the lack of an adequate protective device proximately caused plaintiff's injuries ( see *Mayorquin v Carriage House Owner's Corp.*, 202 AD3d 541, 542 [1st Dept 2022]).

Further, the report of defendants' expert, who opined that plaintiff's accident was a "physical impossibility," was insufficient to defeat summary judgment, as he did not inspect the A-frame cart or mini-dumpster allegedly involved in the accident, nor did he examine the debris that caused the cart to flip over ( see Santos v Monadnock Constr. Inc., 209 AD3d 598, 599 [1st Dept 2022]).

Plaintiff's submission of the incident report on her motion does not lead to the conclusion that she adopted the statements contained in that report. On the contrary, plaintiff challenged the report as containing hearsay statements of coworkers who did not witness the accident ( see Marrero v 2075 Holding Co. LLC, 106 AD3d 408, 409 [1st Dept 2013]).

Moreover, plaintiff did not waive her hearsay objections to the incident report by submitting it on her motion, as she challenged the hearsay statements in the report rather than relying on them ( cf. Khaimov v City of New York, 199 AD3d 455, 456 [1st Dept 2021]).

In light of our determination, we find that Supreme Court properly adhered to its original decision when deciding defendants' motion for reargument. As plaintiff has shown entitlement to summary judgment on liability under Labor Law § 240(1), the arguments regarding her Labor Law § 241(6) claim are academic ( see Fanning v Rockefeller Univ., 106 AD3d 484, 485 [1st Dept 2013]).

THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT,  
APPELLATE DIVISION, FIRST DEPARTMENT. ENTERED: March 26, 2026