

NEW YORK COURT OF APPEALS

O'Brien v. Port Authority of New York and New Jersey

29 N.Y.3d 27 (2017) · No. No. 27 · Decided March 30, 2017

SUMMARY

The New York Court of Appeals held that triable issues of fact precluded summary judgment for the plaintiff on liability under Labor Law § 240 (1). The parties' experts disagreed about whether the temporary metal staircase provided adequate protection against the risk of falling, and the Court concluded that the staircase's mere presence and the plaintiff's fall did not establish a statutory violation. The Court modified the Appellate Division's order and answered the certified question in the negative.

CASE DETAILS

COURT	New York Court of Appeals
WRITING FOR THE COURT	Chief Judge DiFiore; Judge Abdus-Salaam; Judge Fahey; Judge Garcia; Judge Rivera; Judge Stein; Judge Wilson
JURISDICTION	New York
DECIDED	March 30, 2017
DOCKET	No. 27
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Defendants appealed by certified question from an Appellate Division order that granted plaintiff partial summary judgment on liability under Labor Law § 240 (1).
STANDARD OF REVIEW	De novo review of summary judgment; summary judgment is appropriate only when the movant establishes entitlement to judgment as a matter of law and no triable issue of material fact exists.
PRECEDENTIAL VALUE	Published New York Court of Appeals opinion; binding precedent in New York.
PARTIES	Port Authority of New York and New Jersey, Tishman Construction Corporation of New York v. Thomas J. O'Brien, Jr.

TOPICS

construction law

construction defects

statutory interpretation

standard of review

appellate procedure

PRACTICE AREAS

Construction law

Personal injury

Appellate procedure

QUESTIONS PRESENTED

1. Whether plaintiff was entitled to partial summary judgment on liability under Labor Law § 240 (1) where conflicting expert opinions created factual disputes concerning the adequacy of a temporary metal staircase.
2. Whether a fall at a construction site, standing alone, establishes a violation of Labor Law § 240 (1).
3. Whether the certified question should be answered in the negative.

HOLDINGS

1. Plaintiff was not entitled to summary judgment on liability because triable issues of fact existed as to whether the temporary staircase provided adequate protection against the risk of falling.
2. The mere fact that a worker fell at a construction site, including down stairs, does not by itself establish a violation of Labor Law § 240 (1).
3. Compliance with industry standards does not, by itself, establish that a safety device was adequate under Labor Law § 240 (1).

KEY QUOTATIONS

“To the extent the Appellate Division opinion below can be read to say that a statutory violation occurred merely because plaintiff fell down the stairs, it does not provide an accurate statement of the law.” (33)

“Accordingly, the order of the Appellate Division, insofar as appealed from, should be modified, without costs, by denying plaintiff’s motion insofar as it sought summary judgment on the issue of liability on his Labor Law § 240 (1) claim, and as so modified, affirmed, and the certified question answered in the negative.” (34)

FACTUAL BACKGROUND

Thomas J. O'Brien, an employee of subcontractor DCM Erectors, worked at the 1 World Trade Center construction site owned by the Port Authority and operated by general contractor Tishman Construction. During rain, O'Brien descended a temporary exterior metal staircase to retrieve a rain jacket, slipped on a wet tread, and fell down the stairs. The parties submitted conflicting expert opinions concerning whether the staircase was adequately designed, maintained, and equipped to provide protection against slipping.

PROCEDURAL HISTORY

Plaintiff sought partial summary judgment on his Labor Law §§ 240 (1) and 241 (6) claims. Supreme Court denied summary judgment on the § 240 (1) claim but granted plaintiff summary judgment on the § 241 (6) claim. The Appellate Division modified the order, granting plaintiff summary judgment on the § 240 (1) claim and denying summary judgment on the § 241 (6) claim. Defendants appealed to the New York Court of Appeals by certified question.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The Appellate Division order was modified by denying plaintiff's motion for summary judgment on liability under Labor Law § 240 (1), and the order was otherwise affirmed.

CASES CITED

- Narducci v. Manhasset Bay Assoc., 96 N.Y.2d 259, 267 (2001)
- Nicometi v. Vineyards of Fredonia, LLC, 25 N.Y.3d 90, 97-99 (2015)
- Runner v. New York Stock Exch., Inc., 13 N.Y.3d 599, 603 (2009)
- Berg v. Albany Ladder Co., Inc., 10 N.Y.3d 902, 904 (2008)
- Toefer v. Long Is. R.R., 4 N.Y.3d 399, 407 (2005)
- Blake v. Neighborhood Hous. Servs. of N.Y. City, 1 N.Y.3d 280, 285-289 & n.8 (2003)
- Zimmer v. Chemung County Performing Arts, 65 N.Y.2d 513, 520, 523-524 (1985)
- 511 W. 232nd Owners Corp. v. Jennifer Realty Co., 98 N.Y.2d 144, 151 n.3 (2002)
- Alvarez v. Prospect Hosp., 68 N.Y.2d 320, 324 (1986)
- Sillman v. Twentieth Century-Fox Film Corp., 3 N.Y.2d 395, 404 (1957)
- Stewart v. Ferguson, 164 N.Y. 553 (1900)
- Klein v. City of New York, 89 N.Y.2d 833, 835 (1996)
- Negri v. Stop & Shop, Inc., 65 N.Y.2d 625 (1985)
- Stonehill Capital Mgt., LLC v. Bank of the West, 28 N.Y.3d 439, 448 (2016)
- Ross v. Curtis-Palmer Hydro-Elec. Co., 81 N.Y.2d 494, 499-500 (1993)
- Rocovich v. Consolidated Edison Co., 78 N.Y.2d 509, 512 (1991)
- Saint v. Syracuse Supply Co., 25 N.Y.3d 117, 124 (2015)
- Bland v. Manocherian, 66 N.Y.2d 452, 459-460 (1985)
- Koenig v. Patrick Constr. Corp., 298 N.Y. 313, 319 (1948)
- Hutchinson v. Sheridan Hill House Corp., 26 N.Y.3d 66, 82 (2015)

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