

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

Capil Joseph v. Memorial Hosp. for Cancer & Allied Diseases et al.

2025 NY Slip Op 07097 (Appellate Division of the Supreme Court of the State of New York First Department 2025) · No. Index No. 158336/21; Appeal No. 5434; Case No. 2025-01080 · Decided December 18, 2025

SUMMARY

The Appellate Division, First Department modified an order granting the plaintiff partial summary judgment on a Labor Law § 241(6) claim and otherwise affirmed. The court held that factual issues existed regarding whether the plaintiff was engaged in construction work and whether lighting conditions violated Industrial Code § 23-1.30, while concluding that the record supported notice of the puddle and lighting conditions and that the accident occurred on a floor under Industrial Code § 23-1.7(d).

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, First Department
WRITING FOR THE COURT	Kern, J.P.; Scarpulla, J.; Friedman, J.; Shulman, J.; Rosado, J.
JURISDICTION	New York Appellate Division, First Department
DECIDED	December 18, 2025
DOCKET	Index No. 158336/21; Appeal No. 5434; Case No. 2025-01080
DISPOSITION	other
PROCEDURAL POSTURE	Appeal from an order granting plaintiff partial summary judgment on a Labor Law § 241(6) claim and denying defendants' motion for summary judgment dismissing that claim.
STANDARD OF REVIEW	Summary judgment is proper only where the movant establishes entitlement to judgment as a matter of law; the court reviewed the legal sufficiency of plaintiff's prima facie showing and the existence of issues of fact.
PRECEDENTIAL VALUE	Published intermediate appellate opinion

PARTIES

Memorial Sloan-Kettering Cancer Center, incorrectly sued as Memorial Hospital for Cancer and Allied Diseases, Memorial Sloan-Kettering Cancer Center (David H. Koch Center), Turner Construction Company v. Capil Joseph

TOPICS

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QUESTIONS PRESENTED

1. Whether plaintiff was entitled to partial summary judgment on a Labor Law § 241(6) claim when a factual issue existed as to whether he was engaged in construction work at the time of the accident.
2. Whether plaintiff established a prima facie violation of Industrial Code (12 NYCRR) § 23-1.30 based on allegedly inadequate lighting.
3. Whether plaintiff established that defendants had notice of the alleged Industrial Code violations.
4. Whether the accident location was a passageway or a floor within the meaning of Industrial Code (12 NYCRR) § 23-1.7(d).

HOLDINGS

1. Plaintiff was not entitled to partial summary judgment because an issue of fact existed as to whether he was engaged in construction work when he slipped.
2. Plaintiff failed to establish a prima facie violation of Industrial Code § 23-1.30 because the evidence showed the area was dimly lit, rather than completely dark, and the assertions concerning the lighting were conclusory and nonspecific.
3. Plaintiff established, for purposes of the summary-judgment motion, that his foreman knew or should have known about the puddle and lighting conditions.
4. The passageway characterization was academic because the record indicated that plaintiff slipped and fell on a floor within the meaning of Industrial Code § 23-1.7(d).

KEY QUOTATIONS

"The court should not have granted plaintiff, a journeyman ironworker, partial summary judgment on the Labor Law § 241(6) claim, as an issue of fact exists as to whether plaintiff was engaged in construction work when he slipped" ([*1])

"Thus, the witnesses' 'conclusory and nonspecific assertions' about how dark the area was are 'insufficient to create an inference that the amount of lighting fell below the specific statutory standard' under Industrial Code § 23-1.30" ([*1])

FACTUAL BACKGROUND

Capil Joseph, a journeyman ironworker, slipped on a puddle of water leaking from a ceiling pipe in a dimly lit mechanical room while proceeding to the roof to install a window-washing rig. The room was in a building that had been turned over to Memorial Sloan-Kettering, had a certificate of occupancy, and was fully occupied; defendants characterized the project as essentially completed and the room as suitable for occupancy. Joseph was the last of four workers to leave the room, and his foreman had exited through the same route before the accident.

PROCEDURAL HISTORY

Supreme Court, New York County, granted plaintiff's motion for partial summary judgment on the Labor Law § 241(6) claim predicated on Industrial Code §§ 23-1.7(d) and 23-1.30, and denied the motion for summary judgment by the relevant defendants. The First Department modified the order to deny plaintiff's motion and otherwise affirmed.

DISPOSITION

other

REMAND INSTRUCTIONS

The order was modified, on the law, to deny plaintiff's motion for partial summary judgment; in all other respects it was affirmed, without costs.

CASES CITED

- Toro v Plaza Constr. Corp., 82 AD3d 505, 506 (1st Dept 2011), lv denied 18 NY3d 801 (2011)
- Cahill v Triborough Bridge & Tunnel Auth., 31 AD3d 347, 349 (1st Dept 2006)
- Oliveira v Top Shelf Elec. Corp., 230 AD3d 1035, 1035 (1st Dept 2024)
- Velasquez v 795 Columbus LLC, 103 AD3d 541, 542 (1st Dept 2013)
- DeStefano v Amtad N.Y., 269 AD2d 229 (1st Dept 2000)
- Temes v Columbus Ctr. LLC, 48 AD3d 281, 281 (1st Dept 2008)