

NEW YORK SUPREME COURT, APPELLATE DIVISION, FIRST
DEPARTMENT

Ochoa v. 3475 Third Ave. Hous. Dev. Fund Corp.

2026 NY Slip Op 03737 (N.Y. 2026) · No. Appeal No. 6882; Case No. 2025-06525; Index No. 31545/19 ·
Decided June 11, 2026

SUMMARY

The New York Appellate Division, First Department, affirmed an order granting the plaintiff summary judgment on liability under Labor Law § 240(1) and denying defendants’ cross-motion seeking dismissal of the Labor Law §§ 240(1) and 241(6) claims. The court held that the unsecured extension ladder’s collapse established a prima facie statutory violation, and that defendants failed to raise a triable issue concerning sole proximate cause. The court also held that retrieving materials for ongoing sprinkler installation constituted protected activity and that any comparative negligence was not a defense to the § 240(1) claim.

CASE DETAILS

COURT	New York Supreme Court, Appellate Division, First Department
WRITING FOR THE COURT	Kennedy, J.P.; Scarpulla, J.; Friedman, J.; Mendez, J.; Pitt-Burke, J.
JURISDICTION	New York Supreme Court, Appellate Division, First Department
DECIDED	June 11, 2026
DOCKET	Appeal No. 6882; Case No. 2025-06525; Index No. 31545/19
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendants appealed from an order granting plaintiff summary judgment on liability under Labor Law § 240(1) and denying defendants' cross-motion for summary judgment dismissing the Labor Law §§ 240(1) and 241(6) claims.
STANDARD OF REVIEW	The court reviewed the propriety of summary judgment, including whether plaintiff established prima facie entitlement to judgment as a matter of law and whether defendants raised a triable issue of fact concerning a statutory violation or sole proximate cause.
PRECEDENTIAL VALUE	published appellate decision
PARTIES	3475 Third Avenue Housing Development Fund Corporation, et al. v. Julio Ochoa

TOPICS

construction law

summary judgment

civil procedure

appellate procedure

PRACTICE AREAS

construction law

personal injury

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appellate procedure

QUESTIONS PRESENTED

1. Whether plaintiff was entitled to summary judgment on liability under Labor Law § 240(1) after an unsecured extension ladder slid and collapsed while he was descending it.
2. Whether defendants raised a triable issue of fact that plaintiff's own acts or omissions were the sole proximate cause of the accident.
3. Whether plaintiff's retrieval of materials for ongoing sprinkler installation constituted protected activity under Labor Law § 240(1).
4. Whether defendants' arguments concerning the Labor Law § 241(6) claim required reversal or other relief.

HOLDINGS

1. Plaintiff was properly granted summary judgment on liability because his testimony established that an unsecured extension ladder, placed by another worker and used to travel between work areas, slid and collapsed while he was on it, and defendants failed to raise a triable issue of fact regarding a statutory violation.
2. Defendants failed to raise a triable issue that plaintiff's acts or omissions were the sole proximate cause of the accident. Even if plaintiff was in an area where he was not supposed to be, that conduct would constitute comparative negligence, which is not a defense to a Labor Law § 240(1) claim.
3. Plaintiff's retrieval of materials for ongoing sprinkler installation work was a protected activity under Labor Law § 240(1), because duties ancillary to enumerated construction activities fall within the statute's protection.
4. Defendants' arguments concerning the Labor Law § 241(6) claim were academic because plaintiff's entitlement to summary judgment on liability under Labor Law § 240(1) was properly established.

KEY QUOTATIONS

“Even assuming that plaintiff was in an area of the work site where he was not supposed to be, his presence there would amount only to comparative negligence, which is not a defense to a Labor Law § 240(1) claim”
(at *1)

“Because plaintiff was properly granted summary judgment as to liability on the Labor Law § 240(1) claim, defendants' arguments regarding the Labor Law § 241(6) claim are academic” (at *2)

FACTUAL BACKGROUND

Plaintiff, a plumber, was retrieving materials stored in a basement for ongoing sprinkler installation work. While descending an unsecured extension ladder leaned against a wall and used by workers to travel between the first floor and basement garage entrance, the ladder suddenly slid and collapsed, causing plaintiff to fall with it. Other workers had used the ladder, including one shortly before the accident, and there was no evidence that plaintiff had been instructed not to use it.

PROCEDURAL HISTORY

Supreme Court, Bronx County, granted plaintiff's motion for summary judgment on liability on his Labor Law § 240(1) claim and denied defendants' cross-motion seeking dismissal of the Labor Law §§ 240(1) and 241(6) claims. The Appellate Division, First Department, unanimously affirmed the order to the extent appealed from, without costs.

DISPOSITION

affirmed

CASES CITED

- Melendez v. 1595 Broadway LLC, 214 A.D.3d 600, 601 (1st Dep't 2023)
- Maltese v. Port of Auth. of N.Y. & N.J., 199 A.D.3d 612, 613 (1st Dep't 2021)
- Stankey v. Tishman Constr. Corp. of N.Y., 131 A.D.3d 430, 430 (1st Dep't 2015)
- Plaku v. 1622 Van Buren LLC, 198 A.D.3d 431, 431-432 (1st Dep't 2021)
- Prats v. Port Auth. of N.Y. & N.J., 100 N.Y.2d 878, 882 (2003)
- Auriemma v. Biltmore Theatre, LLC, 82 A.D.3d 1, 9 (1st Dep't 2011)
- Demetrio v. Clune Constr. Co., L.P., 176 A.D.3d 621, 622 (1st Dep't 2019)
- Nacewicz v. Roman Catholic Church of the Holy Cross, 105 A.D.3d 402, 403-404 (1st Dep't 2013)
- Biaca-Neto v. Boston Rd. II Hous. Dev. Fund Corp., 34 N.Y.3d 1166, 1168 (2020)
- Fanning v. Rockefeller Univ., 106 A.D.3d 484, 485 (1st Dep't 2013)