

NEW YORK COURT OF APPEALS

Salazar v. Novalex Contracting Corp.

18 N.Y.3d 134 (2011) · Decided November 21, 2011

SUMMARY

The New York Court of Appeals held that Labor Law § 240 (1) did not apply to a worker who stepped into a trench while spreading concrete because covering or barricading the trench would have been inconsistent with the purpose of the work, which was to fill it. The court similarly dismissed the worker's Labor Law § 241 (6) claim predicated on 12 NYCRR 23-1.7 (b) (1) (i).

CASE DETAILS

COURT	New York Court of Appeals
WRITING FOR THE COURT	Pigott, J.; Lippman; Pigott
JURISDICTION	New York
DECIDED	November 21, 2011
DISPOSITION	reversed
PROCEDURAL POSTURE	Defendants appealed after the Appellate Division reversed Supreme Court's grant of summary judgment dismissing Salazar's Labor Law §§ 240 (1) and 241 (6) claims and reinstated those claims.
STANDARD OF REVIEW	Summary judgment is appropriate where there is no genuine dispute of material fact and the movant is entitled to judgment as a matter of law; the Court reviewed the legal applicability of Labor Law §§ 240 (1) and 241 (6) to the undisputed work conditions.
PRECEDENTIAL VALUE	published precedential opinion of the New York Court of Appeals
PARTIES	Novalex Contracting Corp., 96 Rockaway, LLC, T-Construction Co., Inc. v. Raul Salazar

TOPICS

[construction law](#) [statutory interpretation](#) [personal injury](#) [plain meaning rule](#)

PRACTICE AREAS

[construction law](#) [New York Labor Law](#) [personal injury](#) [statutory interpretation](#)

QUESTIONS PRESENTED

1. Whether Labor Law § 240 (1) imposed liability for the failure to cover or barricade a trench when the work itself required filling the trench with concrete.
2. Whether Labor Law § 241 (6), predicated on 12 NYCRR 23-1.7 (b) (1) (i), applied when covering or guarding the trench would have been inconsistent with the work of filling it.

HOLDINGS

1. Defendants were entitled to summary judgment dismissing the Labor Law § 240 (1) claim because the proposed protective device would have been contrary to the objectives of the work plan, which required filling the trench with concrete.
2. Defendants were entitled to summary judgment dismissing the Labor Law § 241 (6) claim because 12 NYCRR 23-1.7 (b) (1) (i) could not reasonably be applied to require covering or guarding an opening that the work necessarily required workers to fill with concrete.

KEY QUOTATIONS

“Put simply, it would be illogical to require an owner or general contractor to place a protective cover over, or otherwise barricade, a three- or four-foot-deep hole when the very goal of the work is to fill that hole with concrete.” (140)

“Given that Labor Law § 240 (1) should be construed with a commonsense approach to the realities of the workplace at issue, defendants are entitled to summary judgment dismissing that claim.” (140)

FACTUAL BACKGROUND

Raul Salazar was injured while working in the basement of a Brooklyn building undergoing renovations. He and other workers were directed to pour and spread concrete over the entire basement floor, including trenches intended to be filled with concrete. While walking backward and pulling concrete with a rake, Salazar stepped into a partially filled trench approximately two feet wide and three to four feet deep; the trench had no railing, barricade, or cover.

PROCEDURAL HISTORY

Salazar sued the property owner, general contractor, and employer after being injured while spreading concrete over a basement floor containing trenches. Supreme Court granted defendants' motions for summary judgment and dismissed the complaint. The Appellate Division reversed insofar as the order dismissed the Labor Law §§ 240 (1) and 241 (6) claims, denied defendants' motions as to those claims, and reinstated them. The Court of Appeals reversed the Appellate Division and dismissed both claims.

DISPOSITION

reversed

CASES CITED

- Broggy v. Rockefeller Group, Inc., 8 N.Y.3d 675, 681 (2007)
- Runner v. New York Stock Exch., Inc., 13 N.Y.3d 599, 604 (2009)
- Ross v. Curtis-Palmer Hydro-Elec. Co., 81 N.Y.2d 494, 501 (1993)
- Wilinski v. 334 E. 92nd Hous. Dev. Fund Corp., 18 N.Y.3d 1, 11 (2011)

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/new-york-new-york-court-of-appeals/2011/salazar-v-novalex-contracting-corp-74s2g2u0>