

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

Narvaez v. 12 W. 31st St. Corp.

Narvaez, 2026 NY Slip Op 02069 (Supreme Court of the State of New York Appellate Division First Department 2026) · No. Index No. 152206/21; Appeal Nos. 6277-6279; Case Nos. 2024-06849, 2024-06850, 2025-03857 ·
Decided April 7, 2026

SUMMARY

The Appellate Division, First Department modified an order denying plaintiff's motion to vacate a dismissal, holding that law office failure provided a reasonable excuse as to the Labor Law § 240(1) claim. The court vacated dismissal of that claim and granted plaintiff partial summary judgment, while deeming the Labor Law §§ 241(6) and 200 and common-law negligence claims abandoned. The appeal from the dismissal order was dismissed as academic.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, First Department
WRITING FOR THE COURT	Webber, J.P.; Kennedy, J.; Kapnick, J.; González, J.; O'Neill Levy, J.
JURISDICTION	New York Supreme Court, Appellate Division, First Department
DECIDED	April 7, 2026
DOCKET	Index No. 152206/21; Appeal Nos. 6277-6279; Case Nos. 2024-06849, 2024-06850, 2025-03857
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff appealed orders denying his CPLR 5015(a)(1) motion to vacate an order dismissing the complaint and denying his motion for partial summary judgment on his Labor Law § 240(1) claim.
STANDARD OF REVIEW	The Appellate Division reviewed the CPLR 5015(a)(1) vacatur ruling and summary-judgment determination as matters of law and modified or reversed on the law.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Wilson Narvaez v. 12 West 31st Street Corp., et al.

TOPICS

summary judgment

civil procedure

appellate procedure

construction law

standard of review

PRACTICE AREAS

construction law

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QUESTIONS PRESENTED

1. Whether plaintiff demonstrated a reasonable excuse and lack of unreasonable delay warranting vacatur under CPLR 5015(a)(1) of the order dismissing his Labor Law § 240(1) claim.
2. Whether plaintiff established the merit of his Labor Law § 240(1) claim sufficiently to obtain partial summary judgment.
3. Whether plaintiff abandoned his Labor Law §§ 241(6) and 200 claims and common-law negligence claim by failing to address them in his vacatur motion.

HOLDINGS

1. Plaintiff demonstrated a reasonable excuse for failing to timely oppose defendants' summary judgment motion and did not unreasonably delay in moving to vacate; the one-time incident of law office failure therefore warranted vacatur of the dismissal of the Labor Law § 240(1) claim.
2. Plaintiff was entitled to partial summary judgment on his Labor Law § 240(1) claim because he was required to work on an elevated fire escape, was exposed to an elevation-related risk, and defendants failed to provide an adequate safety device.
3. Those claims were deemed abandoned because plaintiff did not address them in his motion to vacate, and the court declined to search the record to reverse their dismissal.

KEY QUOTATIONS

*"Here, however, plaintiff established that the fire escape "was an elevated surface on which [he] was required to work," which "required provision of an adequate safety device"" ([*1])*

FACTUAL BACKGROUND

Plaintiff was welding a handrail between the tenth and eleventh floors on a fire escape when he slipped and fell down several freshly painted, wet steps. The fire escape was an elevated surface on which plaintiff was required to work, and the record showed that defendants did not provide a safety device protecting him from the elevation-related risk. Defendants argued that the fire escape was neither defective nor used as a safety device, but the court found those arguments contradicted by the record.

PROCEDURAL HISTORY

Supreme Court, New York County, entered an order on November 1, 2024 dismissing the complaint after plaintiff failed to timely oppose defendants' summary judgment motion. The court subsequently denied plaintiff's motion to vacate that order and denied his motion for partial summary judgment. The Appellate Division modified the order denying vacatur, reversed the order denying partial summary judgment, granted plaintiff

summary judgment on his Labor Law § 240(1) claim, and dismissed the appeal from the November 1 order as academic.

DISPOSITION

other

CASES CITED

- US Bank N.A. v. Richards, 155 A.D.3d 522, 522-523 (1st Dep't 2017)
- Winters v. Atlantic Dev. Corp., 205 A.D.3d 447, 447 (1st Dep't 2022)
- O'Brien v. Port Auth. of N.Y. & N.J., 29 N.Y.3d 27, 33 (2017)
- Conlon v. Carnegie Hall Socy., Inc., 159 A.D.3d 655, 655 (1st Dep't 2018)
- Gomez v. City of New York, 63 A.D.3d 511 (1st Dep't 2009)
- O'Shea v. Procida Constr. Corp., 220 A.D.3d 622, 623 (1st Dep't 2023)
- Batista-Rosa v. 1230 Franklin, LLC, 245 A.D.3d 461, 462 (1st Dep't 2026)

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