

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

Szczesiak v. Ery Tenant LLC

2026 NY Slip Op 00600 (Supreme Court of the State of New York Appellate Division First Department 2026) ·
No. Index No. 153101/20; Appeal No. 5311; Case No. 2024-05946 · Decided February 5, 2026

SUMMARY

The New York Appellate Division, First Department, reversed an order denying plaintiff Mikolaj Szczesiak summary judgment on liability under Labor Law § 240(1). The court held that the defective A-frame ladder, which moved and caused plaintiff to fall after a mild electric shock, failed to provide adequate protection against a gravity-related risk. Defendants' comparative-negligence and expert-evidence arguments did not raise a triable issue of fact.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, First Department
WRITING FOR THE COURT	Martin Mendez, J.; Peter H. Moulton, J.P.; Barbara R. Kapnick, J.; Manuel Mendez, J.; Martin Shulman, J.; Shlomo S. Hagler, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, First Department
DECIDED	February 5, 2026
DOCKET	Index No. 153101/20; Appeal No. 5311; Case No. 2024-05946
DISPOSITION	reversed
PROCEDURAL POSTURE	Plaintiff appealed from an order denying his motion for summary judgment on liability on his Labor Law § 240(1) cause of action.
STANDARD OF REVIEW	Summary judgment is appropriate where the moving party establishes entitlement to judgment as a matter of law and the opposing party fails to raise a triable issue of fact.
PRECEDENTIAL VALUE	published
PARTIES	Mikolaj Szczesiak v. Ery Tenant LLC, et al.

TOPICS

- construction law
- personal injury
- comparative fault
- appellate procedure

PRACTICE AREAS

construction law

personal injury

labor law

appellate procedure

QUESTIONS PRESENTED

1. Whether plaintiff established as a matter of law that the defective and inadequate A-frame ladder violated Labor Law § 240(1) and proximately caused his gravity-related fall.
2. Whether evidence that plaintiff failed to shut off all electricity, or that the electric shock caused him to exert lateral force on the ladder, raised a triable issue of fact or established that plaintiff was the sole proximate cause of the accident.
3. Whether plaintiff's alleged failure to completely shut off the electricity constituted a defense to liability under Labor Law § 240(1).

HOLDINGS

1. Plaintiff was entitled to summary judgment on liability under Labor Law § 240(1) because the ladder was defective and failed to provide adequate protection against the gravity-related risk inherent in his work; the defective ladder was the proximate cause of his fall.
2. Plaintiff's failure to completely turn off the electricity, at most, constituted comparative negligence, which is not a defense to a Labor Law § 240(1) claim and did not establish that plaintiff was the sole proximate cause of the accident.

KEY QUOTATIONS

“Labor Law § 240(1) is designed to protect workers against harm directly flowing from the application of the force of gravity to an object or person.” (2026 NY Slip Op 00600)

“At most, his failure to completely turn off the electricity to the area he was working in constituted comparative negligence, which is not a defense to a Labor Law § 240(1) claim” (2026 NY Slip Op 00600)

“Unlike Nazario, Cutaia, Higgins, and Rosa, in this case the proximate cause of the accident was the defective ladder, not the electric shock.” (2026 NY Slip Op 00600)

FACTUAL BACKGROUND

Mikolaj Szczesiak, an electrician, fell from an old 10-foot A-frame fiberglass ladder while troubleshooting lighting controls approximately 11 feet above the ground. After receiving a brief electric shock, he removed his hand from the wires and testified that the ladder immediately moved, wobbled, shifted, and fell; he remained conscious and denied pulling the ladder down. Photographs showed two bent crossbeams and worn rubber feet, and the general contractor's safety manager testified that a ladder in that condition should have been removed from service. Plaintiff's expert and the general contractor's witnesses opined that a Baker scaffold or scissor lift with railings would have provided adequate protection and prevented the fall.

PROCEDURAL HISTORY

Plaintiff was injured after falling from an A-frame ladder at a construction site and moved for summary judgment on liability under Labor Law § 240(1). Supreme Court, New York County, denied the motion, finding that defendants' evidence concerning live electrical wires created an issue of fact regarding whether plaintiff was the sole proximate cause of the accident. The Appellate Division reversed and granted plaintiff's motion.

DISPOSITION

reversed

REMAND INSTRUCTIONS

The order denying plaintiff's motion for summary judgment on liability under Labor Law § 240(1) was reversed, without costs, and the motion was granted.

CASES CITED

- Cutaia v. Board of Mgrs. of the 160/170 Varick Street Condominium, 38 NY3d 1037, 1039 (2022)
- Cutaia v. Board of Mgrs. of the Varick Street Condominium, 172 AD3d 424, 426, 429-430 (1st Dept 2019), revd, 38 NY3d 1037 (2022)
- Rodas-Garcia v. NYC United LLC, 225 AD3d 556, 556 (1st Dept 2024)
- Pinzon v. Royal Charter Props., Inc., 211 AD3d 442, 443 (1st Dept 2022)
- DelRosario v. United Nations Fed. Credit Union, 104 AD3d 515, 515 (1st Dept 2013)
- Daniello v. J.T. Magen & Co., Inc., 239 AD3d 516, 516-517 (1st Dept 2025)
- Lopez v. 18-20 Park 84 Corp., 235 AD3d 591, 592 (1st Dept 2025)
- Nunez v. SY Prospect LLC, 226 AD3d 410 (1st Dept 2024)
- Begnoja v. Hudson Riv. Park Trust, 238 AD3d 481, 482 (1st Dept 2025)
- Tuzzolino v. Consolidated Edison Co. of New York, 160 AD3d 568, 568 (1st Dept 2018)
- Rivera v. 7132 Fifth Ave. Owner LP, 229 AD3d 401, 403 (1st Dept 2024)
- Suazo v. 501 Madison-Sutton LLC, 235 AD3d 513 (1st Dept 2025)
- Hernandez v. Port Auth. of N.Y. & N.J., 241 AD3d 1069, 1071 (1st Dept 2025)
- Nazario v. 222 Broadway, LLC, 28 NY3d 1054, 1055 (2016)
- Higgins v. TST 375 Hudson, L.L.C., 179 AD3d 508, 510 (1st Dept 2020)
- Rosa v. 47 E. 34th St. [NY], L.P., 208 AD3d 1075, 1080 (1st Dept 2022)