

COURT OF APPEALS OF THE STATE OF NEW YORK

Morris v. Pavarini Construction

9 N.Y.3d 47, 874 N.E.2d 723, 842 N.Y.S.2d 759 (2007) · Decided July 2, 2007

SUMMARY

The New York Court of Appeals considered whether 12 NYCRR 23-2.2(a), requiring concrete forms to be braced or tied to maintain their position and shape, could support liability under Labor Law § 241(6). The court held that the regulation contains specific requirements, but that the record was insufficient to determine whether it applied to the object that injured the plaintiff. The court reversed summary judgment for the defendants and remitted the matter for further proceedings.

CASE DETAILS

COURT	Court of Appeals of the State of New York
WRITING FOR THE COURT	Smith, J.; Chief Judge Kaye; Judge Ciparick; Judge Graffeo; Judge Read; Judge Pigott; Judge Jones; Judge Smith
JURISDICTION	New York
DECIDED	July 2, 2007
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Plaintiff appealed from an Appellate Division order reversing Supreme Court's denial of defendants' motion for summary judgment on the Labor Law § 241 (6) claim. The Court of Appeals granted leave to appeal.
STANDARD OF REVIEW	Summary judgment is improper where the record is insufficient to resolve a material issue; when the interpretation of specialized regulatory terms depends on technical matters, the court may need to hear expert evidence before deciding the legal question.
PRECEDENTIAL VALUE	Published and precedential decision of the New York Court of Appeals.
PARTIES	Glenford Morris v. Pavarini Construction, Other respondents

TOPICS

- construction law
- statutory interpretation
- appellate procedure
- standard of review

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether 12 NYCRR 23-2.2 (a)'s requirement that forms be braced or tied together so as to maintain position and shape is sufficiently specific to support liability under Labor Law § 241 (6).
2. Whether summary judgment dismissing Morris's Labor Law § 241 (6) claim was proper when the record did not establish whether the regulation applied to the incomplete form component that injured him or what technical measures could have stabilized it.

HOLDINGS

1. The portions of 12 NYCRR 23-2.2 (a) requiring forms to be braced or tied together so as to maintain position and shape impose sufficiently specific requirements to serve as a basis for liability under Labor Law § 241 (6). By contrast, the phrases "structurally safe" and "properly" are not sufficiently specific.
2. Summary judgment dismissing the Labor Law § 241 (6) claim was premature because the record was insufficient to determine whether the regulation applied to the incomplete form component and what the specialized construction terms required.

KEY QUOTATIONS

"The words "structurally safe" and the adverb "properly" are not specific enough to be a basis for Labor Law § 241 (6) liability, but the words "braced or tied together so as to maintain position and shape" impose more specific requirements." (50)

"It was premature for the Appellate Division to grant summary judgment on this record." (51)

FACTUAL BACKGROUND

Morris, a carpenter working on construction of a Manhattan building, was injured when a large object that he described as a form fell on his hand. The object was not a completed concrete form but part or all of one of its metal sides, and the record did not clearly establish its construction or dimensions. Morris alleged that the object was unsafe because it violated 12 NYCRR 23-2.2 (a), which requires forms to be braced or tied together to maintain their position and shape.

PROCEDURAL HISTORY

Morris, a carpenter, sued the construction manager and property owner after a portion of a concrete form fell and injured his hand. Supreme Court dismissed his other claims but denied defendants' motion for summary judgment dismissing the Labor Law § 241 (6) claim. The Appellate Division reversed and ordered that claim dismissed; the Court of Appeals reversed and remitted for further proceedings.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The matter was remitted to Supreme Court for further proceedings consistent with the opinion, including development of a more complete record concerning the nature of the object that caused the injury and expert opinions regarding whether the regulation can sensibly apply to anything other than completed forms.

CASES CITED

- Ross v. Curtis-Palmer Hydro-Elec. Co., 81 N.Y.2d 494 (1993)
- Allen v. Cloutier Construction Corp., 44 N.Y.2d 290 (1978)
- Millard v. City of Ogdensburg, 274 A.D.2d 953 (4th Dep't 2000)

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