

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
SECOND JUDICIAL DEPARTMENT

Moreno v. Hossain

Moreno, 2026 NY Slip Op 03159 (Supreme Court of the State of New York Appellate Division Second Judicial Department 2026) · No. 2021-04463 · Decided May 20, 2026

SUMMARY

The Appellate Division, Second Department, reversed an order granting defendants summary judgment dismissing claims under Labor Law §§ 240(1) and 241(6). The court held that defendants failed to eliminate triable issues of fact concerning whether the property and the work served a commercial purpose, which affected applicability of the homeowner exemption. The action arose from a worker’s hand injury while removing a mirror in a second-floor rental apartment.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Betsy Barros, J.P.; Linda Christopher, J.; Carl J. Landicino, J.; Laurence L. Love, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
DECIDED	May 20, 2026
DOCKET	2021-04463
DISPOSITION	reversed
PROCEDURAL POSTURE	Plaintiff appealed from an order granting defendants summary judgment dismissing causes of action alleging violations of Labor Law §§ 240(1) and 241(6).
STANDARD OF REVIEW	On review of summary judgment, the court determines whether the moving defendants eliminated all triable issues of fact and established entitlement to judgment as a matter of law.
PRECEDENTIAL VALUE	Published appellate decision
PARTIES	Felix E. Moreno v. Enayet Hossain, et al.

TOPICS

construction law

personal injury

appellate procedure

standard of review

PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether defendants established as a matter of law that they qualified for the homeowner's exemption from liability under Labor Law §§ 240(1) and 241(6).
2. Whether defendants eliminated triable issues of fact concerning whether the premises and the work performed had a commercial purpose.

HOLDINGS

1. Defendants failed to eliminate triable issues of fact regarding whether they were entitled to the homeowner's exemption, including whether the premises had a commercial purpose and whether Moreno's work related to that commercial purpose.

KEY QUOTATIONS

*"However "[r]enovating a residence for resale or rental plainly qualifies as work being performed for a commercial purpose"" ([*1]-[*2])*

*"Here, contrary to the Supreme Court's determination, the defendants failed to eliminate triable issues of fact as to whether they were entitled to the homeowner's exemption to Labor Law §§ 240(1) and 241(6), including whether the premises had a commercial purpose and whether the work the plaintiff performed related to a commercial purpose of the premises" ([*2])*

FACTUAL BACKGROUND

In September 2017, Felix E. Moreno, an employee of A & A Home Improvement, Inc., was performing work at property owned by the defendants. While Moreno and his supervisor were lifting a mirror from a wall in a second-floor rental apartment, the upper portion of the mirror broke and struck Moreno's hand. The property owners sought summary judgment on Moreno's Labor Law §§ 240(1) and 241(6) claims, asserting the homeowner's exemption.

PROCEDURAL HISTORY

Felix E. Moreno commenced a personal-injury action against the property owners, alleging violations of Labor Law §§ 240(1) and 241(6). Defendants moved for summary judgment, and the Supreme Court, Queens County, granted the branches of the motion directed to those claims. The Appellate Division reversed insofar as appealed from and denied those branches of defendants' motion.

DISPOSITION

reversed

CASES CITED

- Argueta v. Hall & Wright, LLC, 230 A.D.3d 1200, 1203
- Pawelic v. Siegel, 220 A.D.3d 883, 884-885
- Batzin v. Ferrone, 140 A.D.3d 1102, 1103
- Caiazzo v. Mark Joseph Contr., Inc., 119 A.D.3d 718, 721
- Chorzepa v. Brzyska, 143 A.D.3d 935, 937

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