

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

Gavilanes v. 919 Ground Lease LLC

2026 NY Slip Op 02451 (App. Div. 1st Dep't Apr. 23 2026) · No. Index No. 153246/22; Appeal No. 6454; Case No. 2025-03947 · Decided April 23, 2026

SUMMARY

The Appellate Division, First Department unanimously affirmed an order granting Luis Gavilanes summary judgment on liability under Labor Law § 240(1) and denying defendants' cross-motion to dismiss that claim. The court held that the evidence established defendants' negligence and a proximate causal connection to the plaintiff's accident, and it rejected challenges concerning translated evidence and the availability of a ladder.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, First Department
WRITING FOR THE COURT	Manzanet-Daniels, J.P.; Kennedy, J.; González, J.; Pitt-Burke, J.; Rosado, J.
JURISDICTION	New York Supreme Court, Appellate Division, First Department
DECIDED	April 23, 2026
DOCKET	Index No. 153246/22; Appeal No. 6454; Case No. 2025-03947
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendants appealed from an order granting plaintiff summary judgment on liability under Labor Law § 240(1) and denying defendants' cross-motion to dismiss that claim.
PRECEDENTIAL VALUE	published
PARTIES	919 Ground Lease LLC et al. v. Luis Gavilanes

TOPICS

- construction law
- personal injury
- evidence
- appellate procedure

PRACTICE AREAS

- construction law
- personal injury
- evidence
- appellate procedure

QUESTIONS PRESENTED

1. Whether plaintiff was entitled to summary judgment on liability under Labor Law § 240(1).
2. Whether defendants were entitled to dismissal of plaintiff's Labor Law § 240(1) claim.
3. Whether translated evidence was properly supported by translator attestations demonstrating competent and accurate translation.

HOLDINGS

1. Plaintiff was entitled to summary judgment on liability because the evidence established that defendants' negligence resulted in a violation of Labor Law § 240(1) and was a proximate cause of plaintiff's accident and injury.
2. The proponent of translated evidence bears the burden of demonstrating that the translation was provided by a competent, objective interpreter and was accurate; professional qualifications and competence in both languages generally suffice, but attestations merely stating fluency without other credentials were inadequate.

KEY QUOTATIONS

“that the translation was provided by a competent, objective interpreter whose translation was accurate”
([*1])

FACTUAL BACKGROUND

Plaintiff was directed by his foreman to cross to the other side of a structure by climbing on its cross-pipes, even though he needed a mobile scaffold to perform his work. Plaintiff climbed without a harness; although he had a harness, he testified that its hook was too small to tie off to the pipes. The record contained a dispute about whether a ladder was available, but there was no evidence that plaintiff refused to use it or that it was a suitable alternative to the mobile scaffold.

PROCEDURAL HISTORY

Supreme Court, New York County, granted plaintiff's motion for summary judgment as to liability on his Labor Law § 240(1) claim and denied defendants' cross-motion seeking dismissal. The Appellate Division, First Department, affirmed the order to the extent appealed from.

DISPOSITION

affirmed

CASES CITED

- Nava-Juarez v. Moshulu Fieldston Realty, LLC, 167 A.D.3d 511, 512 (1st Dep't 2018)
- National Puerto Rican Day Parade, Inc. v. Casa Pubs., Inc., 79 A.D.3d 592, 594 (1st Dep't 2010)
- Hoffman v. SJP TS, LLC, 111 A.D.3d 467, 467 (1st Dep't 2013)
- Ortiz v. City of New York, 224 A.D.3d 631, 631-32 (1st Dep't 2024)

OPINION

Gavilanes v. 919 Ground Lease LLC 2026 NY Slip Op 02451

PER CURIAM.

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April 23, 2026

Appellate Division, First Department

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This decision is uncorrected and subject to revision before publication in the Official Reports.

Luis Gavilanes, Plaintiff-Respondent,

v

919 Ground Lease LLC et al., Defendants-Appellants. [And A Third-Party Action].

Decided and Entered: April 23, 2026

Index No. 153246/22 |Appeal No. 6454|Case No. 2025-03947|

Before: Manzanet-Daniels, J.P., Kennedy, González, Pitt-Burke, Rosado, JJ.

Mintzer Sarowitz Zeris & Willis, PLLC, Melville (Thomas G. Darmody of counsel), for appellants.

Gorayeb & Associates, P.C., New York (John M. Shaw of counsel), for respondent.

[*1]

Order, Supreme Court, New York County (Leticia M. Ramirez, J.), entered on or about April 3, 2025, which, to the extent appealed from as limited by the briefs, granted plaintiff's motion for summary judgment as to liability on his Labor Law § 240 (1) claim and denied defendants' cross-motion seeking dismissal of the Labor Law § 240(1) claim, unanimously affirmed, without costs.

The proponent of translated evidence has the burden of demonstrating "that the translation was provided by a competent, objective interpreter whose translation was accurate" (*Nava-Juarez v Moshulu Fieldston Realty, LLC*, 167 AD3d 511, 512 [1st Dept 2018] [internal quotation marks omitted]). Generally, a certification that the translator is professionally qualified and is competent in both languages is sufficient (*see National Puerto Rican Day Parade, Inc. v Casa Pubs., Inc.*, 79 AD3d 592, 594 [1st Dept 2010]). Here, the translator attestations state only that each translator was fluent in both Spanish and English, with no indication of any other credentials.

The record contains sufficient evidence to establish that defendants' negligence resulted in a violation of Labor Law § 240(1), and was a proximate cause of plaintiff's accident and injury. Plaintiff testified that although he needed a mobile scaffold to perform his work at the subject worksite, he was instead directed by his foreman immediately before the accident occurred to cross over to the other side of the structure by climbing on the cross-pipes of the structure without a harness. Plaintiff also testified

that the foreman had directed him to climb the structure on a prior occasion. Plaintiff testified that although he had a harness, he could not tie it off because its hook was too small for the pipes (*see Hoffman v SJP TS, LLC*, 111 AD3d 467, 467 [1st Dept 2013]).

While there is some dispute as to whether a ladder was available at the worksite on the date of the accident, if it was available and plaintiff knew about it there is no evidence that plaintiff refused to use it or that it was a suitable alternative to the mobile scaffold (*see Ortiz v City of New York*, 224 AD3d 631, 631-32 [1st Dept 2024]).

THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: April 23, 2026

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PER CURIAM.

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Order, Supreme Court, New York County (Leticia M. Ramirez, J.), entered on or about April 3, 2025, which, to the extent appealed from as limited by the briefs, granted plaintiff's motion for summary judgment as to liability on his Labor Law § 240 (1) claim and denied

defendants' cross-motion seeking dismissal of the Labor Law § 240(1) claim, unanimously affirmed, without costs.

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