

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

Veloso v. Scaturro Bros., Inc.

2026 NY Slip Op 01329 (Appellate Division of the Supreme Court of the State of New York First Department 2026) · No. Index No. 153222/17, 595235/19; Appeal No. 6032; Case No. 2025-02610 · Decided March 10, 2026

SUMMARY

The Appellate Division, First Department modified an order denying Hunter Roberts Construction Group, LLC's motion for summary judgment. The court dismissed the plaintiff's Labor Law § 200 and common-law negligence claims against HRCG but upheld the denial of summary judgment on the Labor Law §§ 240(1) and 241(6) claims because triable issues remained regarding HRCG's supervisory authority and statutory-agent status.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, First Department
WRITING FOR THE COURT	Renwick, P.J.; Kennedy, J.; Friedman, J.; Mendez, J.; Hagler, J.
JURISDICTION	New York Supreme Court, Appellate Division, First Department
DECIDED	March 10, 2026
DOCKET	Index No. 153222/17, 595235/19; Appeal No. 6032; Case No. 2025-02610
DISPOSITION	other
PROCEDURAL POSTURE	Defendant Hunter Roberts Construction Group, LLC appealed from an order denying its motion for summary judgment dismissing the complaint and all cross-claims against it.
STANDARD OF REVIEW	Summary judgment is inappropriate where conflicting evidence presents a triable issue of fact; the court reviewed the motion as a matter of law.
PRECEDENTIAL VALUE	Published New York Appellate Division opinion
PARTIES	Hunter Roberts Construction Group, LLC v. Alexandre Veloso

TOPICS

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QUESTIONS PRESENTED

1. Whether triable issues of fact existed as to whether HRCG was a proper statutory defendant or agent subject to liability under Labor Law §§ 240(1) and 241(6).
2. Whether HRCG was entitled to summary judgment on Veloso's Labor Law § 200 and common-law negligence claims absent evidence that it directed or controlled the injury-producing work.

HOLDINGS

1. Summary judgment was properly denied on the Labor Law §§ 240(1) and 241(6) claims because conflicting evidence created triable issues of fact concerning whether HRCG directed or supervised the lead-abatement work or was a statutory agent of the owner.
2. HRCG was entitled to summary judgment dismissing the Labor Law § 200 and common-law negligence claims because no evidence raised a triable issue that HRCG actually directed or controlled Veloso's injury-producing work.

KEY QUOTATIONS

“As a result of the conflicting evidence, issues of fact remain on whether HRCG was a proper defendant for purposes of Labor Law §§ 240(1) and 241(6).” (2026 NY Slip Op 01329, at *1)

“Nevertheless, Supreme Court should have dismissed plaintiff's Labor § 200 and common-law negligence claims as against HRCG, as there is no evidence raising a triable issue of fact as to whether HRCG actually directed or controlled plaintiff's injury-producing work.” (2026 NY Slip Op 01329, at *1)

FACTUAL BACKGROUND

Alexandre Veloso was injured while performing lead paint removal or abatement work in a containment area on a construction project. Hunter Roberts Construction Group, LLC served as construction manager, and its agreement authorized it to generally supervise and direct subcontractors, enforce a project safety plan, and stop unsafe work, but other evidence indicated that it was not responsible for supervising the lead-paint subcontractor and could not access the containment area while the work was underway. The record contained conflicting evidence concerning HRCG's responsibility for the work and whether it was a statutory agent of the owner.

PROCEDURAL HISTORY

The Supreme Court, New York County, denied HRCG's motion for summary judgment. The Appellate Division unanimously modified the order to dismiss the Labor Law § 200 and common-law negligence claims against HRCG and otherwise affirmed, leaving the Labor Law §§ 240(1) and 241(6) claims for trial.

DISPOSITION

other

CASES CITED

- Walls v. Turner Constr. Co., 4 N.Y.3d 861, 864 (2005)
- Mannino v. Waldorf Exteriors, LLC, 235 A.D.3d 470, 471 (1st Dep't 2025)
- Cappabianca v. Skanska USA Bldg. Inc., 99 A.D.3d 139, 143-144 (1st Dep't 2012)

OPINION

PER CURIAM.

Veloso v Scaturro Bros., Inc. (2026 NY Slip Op 01329) Veloso v Scaturro Bros., Inc. 2026 NY Slip Op 01329 Decided on March 10, 2026 Appellate Division, First Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This opinion is uncorrected and subject to revision before publication in the Official Reports. Decided and Entered: March 10, 2026 Before: Renwick, P.J., Kennedy, Friedman, Mendez, Hagler, JJ. Index No. 153222/17, 595235/19|Appeal No. 6032|Case No. 2025-02610| [*1]Alexandre Veloso, Plaintiff-Respondent, v Scaturro Brothers, Inc. Doing Business as Alpine Painting & Sandblasting Contractors, et al., Defendants, Hunter Roberts Construction Group, LLC, Defendant-Appellant.

[And a Third-Party Action] Cullen and Dykman LLP, New York (Angelo Spedafino of counsel), for appellant. Lisa M. Comeau, Garden City, for respondent. Order, Supreme Court, New York County (Gerald Lebovits, J.), entered March 10, 2025, which denied the motion of defendant Hunter Roberts Construction Group, LLC (HRCG) for summary judgment dismissing the complaint and all cross-claims against it, unanimously modified, on the law, to grant the motion to the extent of dismissing plaintiff's Labor Law § 200 and common-law negligence claims as against HRCG, and otherwise affirmed, without costs.

Supreme Court correctly declined to dismiss the Labor Law § 240(1) and § 241(6) claims as against HRCG. The record presents triable issues of fact as to whether HRCG, which was the construction manager on the project, was responsible for directing or supervising the lead abatement work on the project, or was a statutory agent of the owner.

On the one hand, the record establishes that there was no general contractor on the project and that under the terms of the construction management agreement, HRCG was authorized to generally supervise and direct the subcontractors' work.

The agreement also authorized HRCG to develop and enforce a project safety plan to ensure subcontractors' compliance with applicable laws, including those governing safety. Further, HRCG had the power to stop work if an unsafe work practice was observed. This evidence suggests that HRCG is susceptible to liability under sections 240(1) and 241(6) (see Walls v Turner Constr.

Co., 4 NY3d 861, 864 [2005]; *Mannino v Waldorf Exteriors, LLC*, 235 AD3d 470, 471 [1st Dept 2025]). On the other hand, another provision in the construction management agreement suggested that HRCG was not responsible for overseeing the work of the lead paint subcontractor, which was plaintiff's employer. Several witnesses testified to that effect at their depositions, and noted that HRCG was not licensed or certified to oversee lead abatement work.

The evidence also showed that HRCG was precluded from accessing the containment area as the lead paint removal work was in progress. As a result of the conflicting evidence, issues of fact remain on whether HRCG was a proper defendant for purposes of Labor Law §§ 240(1) and 241(6). Nevertheless, Supreme Court should have dismissed plaintiff's Labor § 200 and common-law negligence claims as against HRCG, as there is no evidence raising a triable issue of fact as to whether HRCG actually directed or controlled plaintiff's injury-producing work.

Further, HRCG was not allowed access to the containment area where plaintiff worked and was injured (see *Cappabianca v Skanska USA Bldg. Inc.*, 99 AD3d 139, 143-144 [1st Dept 2012]). We have considered the remaining contentions and find them unavailing. THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT. ENTERED: March 10, 2026