

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

Tower v. Structure Tone, LLC

Tower, 2026 NY Slip Op 01747 (Supreme Court of the State of New York Appellate Division First Department 2026) · No. Appeal No. 6179; Case No. 2025-00894; Index No. 155169/20 · Decided March 24, 2026

SUMMARY

The Appellate Division, First Department modified and otherwise affirmed an order concerning a construction-site injury involving a loose sprinkler pipe. The court granted the plaintiff partial summary judgment on his Labor Law § 241(6) claim based on alleged violations of 12 NYCRR 23-1.7(e)(1) and (e)(2), while finding the Labor Law § 200 and common-law negligence claims academic. The court also upheld conditional contractual indemnification for the general contractor and denial of summary judgment concerning related indemnity and contribution claims.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, First Department
WRITING FOR THE COURT	Manzanet-Daniels, J.P.; Shulman, J.; Rodriguez, J.; Higgitt, J.; Rosado, J.
JURISDICTION	New York Supreme Court, Appellate Division, First Department
DECIDED	March 24, 2026
DOCKET	Appeal No. 6179; Case No. 2025-00894; Index No. 155169/20
DISPOSITION	other
PROCEDURAL POSTURE	Appeal from an order of Supreme Court, New York County, resolving multiple summary-judgment motions concerning Labor Law claims, negligence claims, contractual indemnification, common-law indemnity, and contribution.
STANDARD OF REVIEW	Summary judgment is appropriate where the moving party establishes entitlement as a matter of law and the opposing party fails to raise a triable issue of fact; the Appellate Division reviewed the summary-judgment determinations de novo on the law.
PRECEDENTIAL VALUE	published and precedential
PARTIES	Philip Tower, TGA 730 Third Avenue Owner LLC, Jacobson & Company, Inc., ABCO Peerless Sprinkler Corporation v. Structure

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether Tower was entitled to partial summary judgment on his Labor Law § 241(6) claim based on alleged violations of 12 NYCRR 23-1.7(e)(1) and (e)(2).
2. Whether the integral-to-the-work doctrine barred the Labor Law § 241(6) claim.
3. Whether Structure Tone was entitled to conditional summary judgment on its contractual defense and indemnification claims against Jacobson and ABCO.
4. Whether Jacobson was entitled to summary judgment dismissing ABCO's cross-claims for common-law indemnity and contribution.
5. Whether the Labor Law § 200 and common-law negligence claims against Structure Tone remained justiciable after the Labor Law § 241(6) determination.

HOLDINGS

1. Tower was entitled to partial summary judgment against Structure Tone and TGA-Owner because the loose sprinkler pipe and related debris constituted an obstruction or scattered working material in the route and working area where he fell, establishing violations of 12 NYCRR 23-1.7(e)(1) and (e)(2).
2. The integral-to-the-work doctrine did not provide a defense to the alleged violations of 12 NYCRR 23-1.7(e)(1) and (e)(2) because the loose pipe was not inherent to Tower's task and the danger could have been avoided without obstructing the work or imperiling the worker.
3. Structure Tone was properly granted conditional summary judgment on its contractual defense and indemnification claims against Jacobson and ABCO.
4. Jacobson was not entitled to summary judgment dismissing ABCO's cross-claims for common-law indemnity and contribution because the record did not establish as a matter of law that Tower and Jacobson were free from negligence.
5. The Labor Law § 200 and common-law negligence claims against Structure Tone were rendered academic by the court's disposition of the Labor Law § 241(6) claim.

KEY QUOTATIONS

“only applies when the dangerous condition is inherent to the task at hand, and not, as is the case here, when a defendant or third party's negligence created a danger that was avoidable without obstructing the work or

FACTUAL BACKGROUND

Philip Tower, a carpenter employed by Jacobson, was retrieving an approximately eight-foot door from a sixth-floor storage area at a construction site. While carrying the door along the only route between an elevator and the storage area, he tripped over an unattached 18-inch black sprinkler pipe lying on the floor near stacked doors, along with sheetrock debris and cardboard, and broke his foot. ABCO had performed sprinkler-pipe work on the sixth floor, while Structure Tone was the general contractor and TGA-Owner was the property owner.

PROCEDURAL HISTORY

Philip Tower, an employee of Jacobson & Company, Inc., sued Structure Tone, LLC, the general contractor, and TGA 730 Third Avenue Owner LLC, the property owner, after he tripped over a loose sprinkler pipe at a construction site. Structure Tone brought third-party claims for contractual defense and indemnity against Jacobson and ABCO Peerless Sprinkler Corporation, and Jacobson asserted cross-claims against ABCO for common-law indemnity and contribution. Supreme Court granted Structure Tone summary judgment dismissing Tower's Labor Law § 200 and common-law negligence claims, denied Tower's motion for partial summary judgment on his Labor Law § 241(6) claim, conditionally granted Structure Tone contractual indemnification relief, and denied other requested relief. The Appellate Division modified the order to grant Tower partial summary judgment on the Labor Law § 241(6) claim predicated on Industrial Code provisions 12 NYCRR 23-1.7(e)(1) and (e)(2), and otherwise affirmed.

DISPOSITION

other

REMAND INSTRUCTIONS

The order was modified on the law to grant Tower's motion for partial summary judgment on his Labor Law § 241(6) claim predicated on 12 NYCRR 23-1.7(e)(1) and (e)(2); in all other respects, the order was affirmed.

CASES CITED

- Rossi v 140 W. JV Mgr. LLC, 171 AD3d 668, 668 (1st Dept 2019)
- Romano v New York City Tr. Auth., 213 AD3d 506, 508 (1st Dept 2023)
- Boss v Integral Constr. Corp., 249 AD2d 214, 215 (1st Dept 1998)
- Bazdaric v Almah Partners LLC, 41 NY3d 310, 320 (2024)
- Bowden v Summit Glory Prop. LLC, 238 AD3d 629, 630 (1st Dept 2025)
- Cackett v Gladden Props., LLC, 183 AD3d 419, 420 (1st Dept 2020)
- Newman v New York City Hous. Auth., 231 AD3d 443, 444 (1st Dept 2024)
- Royland v McGovern & Co., LLC, 203 AD3d 677, 679 (1st Dept 2022)
- McCarthy v Turner Constr., Inc., 17 NY3d 369, 375 (2011)

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