

NEW YORK COURT OF APPEALS

Dibrino v. Rockefeller Ctr. N., Inc.

2025 NY Slip Op 07077 · No. No. 103 · Decided December 18, 2025

SUMMARY

The New York Court of Appeals held that contractual indemnification provisions did not require DAL Electrical Corporation to indemnify the general contractor and property owner for injuries sustained by a carpenter who fell from DAL's ladder. The Court concluded that the accident did not arise from DAL's performance of its contractually defined work and that DAL did not assume a tort duty of care to the injured worker under the Espinal exceptions. The Court affirmed the Appellate Division and answered the certified question in the affirmative.

CASE DETAILS

COURT	New York Court of Appeals
WRITING FOR THE COURT	Wilson, Chief Judge; Garcia, Judge; Singas, Judge; Cannataro, Judge; Halligan, Judge; Rivera, Judge; Troutman, Judge
JURISDICTION	New York Court of Appeals
DECIDED	December 18, 2025
DOCKET	No. 103
DISPOSITION	affirmed
PROCEDURAL POSTURE	Court of Appeals review of a certified question from the Appellate Division, First Department, concerning summary judgment on contractual indemnification cross-claims. The Court reviewed the dismissal of Rockefeller Center North, Inc.'s and JRM Construction Management LLC's contractual indemnification cross-claim against DAL Electrical Corporation.
STANDARD OF REVIEW	Summary judgment is proper when the movant establishes the absence of material factual issues and entitlement to judgment as a matter of law; contract interpretation and ambiguity are questions of law.
PRECEDENTIAL VALUE	Published precedential opinion of the New York Court of Appeals
PARTIES	Rockefeller Center North, Inc., JRM Construction Management LLC v. DAL Electrical Corporation

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QUESTIONS PRESENTED

1. Whether the subcontracting agreement required DAL Electrical Corporation to indemnify Rockefeller Center North, Inc. and JRM Construction Management LLC for injuries arising from Dibrino's unauthorized use of DAL's unattended ladder.
2. Whether the broad indemnification provision in Article 12.2.1 required indemnification for a claim indirectly related to DAL's acts or omissions under the agreement.
3. Whether DAL assumed a tort duty of care to Dibrino under the force-or-instrument-of-harm exception to the general rule that a contractual obligation does not create tort liability to a noncontracting third party.

HOLDINGS

1. The indemnification provisions did not require DAL to indemnify Rockefeller or JRM because Dibrino's unauthorized use of DAL's unattended ladder was too attenuated from DAL's contractually defined performance of its work.
2. DAL did not assume a duty of care to Dibrino under the force-or-instrument-of-harm exception because leaving a defective ladder unattended was, at most, a negligent omission too attenuated to constitute the active commission of a wrong.

KEY QUOTATIONS

“The distantly attenuated nexus between DAL's performance of its work, as defined in the subcontracting agreement, and Mr. Dibrino's use of the ladder, renders those injuries beyond the scope of DAL's contractual indemnification obligations.” (at 2)

“Leaving a defective ladder unattended is closer to “mere negligent omission” than to “commission of a wrong,” and employees of subcontractors cannot reasonably rely on the safety and appropriateness of the equipment of others” (at 5)

“The fact that DAL left a ladder at the worksite, or that DAL (potentially) knew that a ladder left open a worksite might be used by other contractors, or that a ladder with bent rungs would be unsafe, are all questions of foreseeability.” (at 6)

FACTUAL BACKGROUND

Dominick Dibrino, an employee of drywall and ceiling subcontractor Jacobson & Co., was injured while measuring a ceiling on a renovation project. After moving the ladder and scaffold supplied by Jacobson, Dibrino used an unattended six-foot ladder owned by electrical subcontractor DAL Electrical Corporation, despite knowing it was not Jacobson's equipment. The ladder had a bent non-stepping rung and blue tape, wobbled while Dibrino was using it, and caused him to fall and suffer serious injuries.

PROCEDURAL HISTORY

After Dominick Dibrino was injured using a DAL-owned ladder, he sued the property owner, general contractor, and subcontractor. Supreme Court granted Dibrino partial summary judgment on his Labor Law § 240 (1) claim and granted Rockefeller and JRM summary judgment on their contractual indemnification cross-claim against DAL. The Appellate Division modified the order, dismissed the claims against DAL at issue, denied Rockefeller and JRM summary judgment on contractual indemnification, and certified the correctness of its decision to the Court of Appeals. The Court of Appeals affirmed the order insofar as appealed from and answered the certified question in the affirmative.

DISPOSITION

affirmed

CASES CITED

- Greenfield v. Philles Records, 98 NY2d 562, 569 (2002)
- Slamow v. Del Col, 79 NY2d 1016, 1018 (1992)
- MAK Tech. Holdings Inc. v. Anyvision Interactive Tech. Ltd., 42 NY3d 570, 572 (2024)
- Hooper Assoc. v. AGS Computers, 74 NY2d 487, 491 (1989)
- Worth Constr. Co., Inc. v. Admiral Ins. Co., 10 NY3d 411, 415 (2008)
- Killian v. Metro. Life Ins. Co., 251 NY 44, 48 (1929)
- Ronnen v. Ajax Elec. Motor Corp., 88 NY2d 582, 589 (1996)
- Lawyers' Fund for Client Protection of State of N.Y. v. Bank Leumi Tr. Co. of New York, 94 NY2d 398, 404 (2000)
- Espinal v. Melville Snow Contractors, 98 NY2d 136, 138, 141-142 (2002)
- Eaves Brooks Costume Co., Inc. v. Y.B.H. Realty Corp., 76 NY2d 220, 226 (1990)
- H.R. Moch Co. v. Rensselaer Water Co., 247 NY 160, 163, 167, 169 (1928)
- Church v. Callanan Indus., 99 NY2d 104, 111-112 (2002)
- Fung v. Japan Airlines Co., Ltd., 9 NY3d 351, 361 (2007)
- Stiver v. Good & Fair Carting & Moving, Inc., 9 NY3d 253 (2007)
- Palka v. Servicemaster Mgt. Services Corp., 83 NY2d 579, 586 (1994)
- Glanzer v. Shepard, 233 NY 236 (1922)
- MacPherson v. Buick Motor Co., 217 NY 382 (1916)
- Fish v. Waverly Elec. Light & Power Co., 189 NY 336 (1907)
- Hall v. United Parcel Serv., 76 NY2d 27, 32 (1990)
- Matter of New York City Asbestos Litig., 27 NY3d 765, 788 (2016)
- 230 AD3d 127, 137 (1st Dept 2024)
- Vega v. Restani Constr. Corp., 18 NY3d 499, 503 (2012)
- Drzewinski v. Atlantic Scaffold & Ladder Co., 70 NY2d 774, 777 (1987)

- Margolin v. New York Life Ins. Co., 32 NY2d 149, 153 (1973)
- Bradley v. Earl B. Feiden, Inc., 8 NY3d 265, 275 (2007)
- Matter of Wallace v. 600 Partners Co., 86 NY2d 543, 548 (1995)

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