

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

O'Brien v. Tectonic Bldrs. Inc.

2025 NY Slip Op 06656 (App. Div. 1st Dep't 2025) · No. Index No. 150670/19; Appeal No. 5256; Case No. 2025-00321 · Decided December 2, 2025

SUMMARY

The Appellate Division, First Department modified an order denying Kevin O'Brien partial summary judgment on his Labor Law § 241(6) claim. The court held that a damaged plywood ramp constituted both a passageway and a working area under Industrial Code § 23-1.7(e)(1) and (2), and that the raised ramp edge was a proximate cause of the injury. The court rejected the integral-to-the-work defense and held that comparative negligence did not defeat the statutory claim.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, First Department
WRITING FOR THE COURT	Renwick, P.J.; Scarpulla, J.; Kapnick, J.; Mendez, J.
JURISDICTION	New York Appellate Division, First Department
DECIDED	December 2, 2025
DOCKET	Index No. 150670/19; Appeal No. 5256; Case No. 2025-00321
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Plaintiff appealed from an order denying his motion for partial summary judgment on his Labor Law § 241(6) claim.
STANDARD OF REVIEW	The Appellate Division reviewed the denial of partial summary judgment on the law, based on undisputed evidence concerning the ramp and the alleged Industrial Code violations.
PRECEDENTIAL VALUE	Published
PARTIES	Kevin O'Brien v. Tectonic Builders Inc., et al.

TOPICS

construction law

personal injury

summary judgment

civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the damaged ramp constituted a passageway under Industrial Code § 23-1.7(e)(1) and a working area under § 23-1.7(e)(2).
2. Whether the raised edge of the ramp was an obstruction or tripping condition under § 23-1.7(e)(1) and a sharp projection under § 23-1.7(e)(2).
3. Whether the integral-to-the-work defense or plaintiff's alleged failure to lift his foot higher defeated plaintiff's Labor Law § 241(6) claim.

HOLDINGS

1. Plaintiff was entitled to partial summary judgment because the ramp was a passageway and working area, its raised two-to-three-inch nose was both an obstruction or tripping condition and a sharp projection under the cited Industrial Code provisions, and the condition proximately caused plaintiff's injury.

KEY QUOTATIONS

“The integral to the work defense does not apply here because the damaged ramp could have been repaired and made safe without preventing the work from continuing” ([*1])

“Any comparative negligence on the part of plaintiff does not defeat his claim under Labor Law § 241(6)” ([*1])

FACTUAL BACKGROUND

Kevin O'Brien, a marble-floor finisher, was injured during a store renovation project when he tripped on the raised front edge of a plywood ramp leading to a bathroom. The ramp served as a passageway and had been damaged the previous day when a heavy mechanical lift partially compressed it, raising its lower edge two to three inches above the cement floor. The ramp was not repaired before O'Brien's accident the next morning.

PROCEDURAL HISTORY

Supreme Court, New York County, denied plaintiff's motion for partial summary judgment. The Appellate Division unanimously modified the order to grant the motion to the extent based on violations of Industrial Code § 23-1.7(e)(1) and (2), and otherwise affirmed.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The order was modified to grant plaintiff's motion for partial summary judgment insofar as predicated on violations of 12 NYCRR 23-1.7(e)(1) and (2), while otherwise affirming the order. The opinion does not state further specific remand instructions.

CASES CITED

- Fitzgerald v. Marriott Intl., Inc., 156 A.D.3d 458, 458-459 (1st Dep't 2017)
- Lenard v. 1251 Ams. Assoc., 241 A.D.2d 391, 393-394 (1st Dep't 1997)
- Kaufman v. Capital One Bank (USA) N.A., 188 A.D.3d 461, 462 (1st Dep't 2020)
- Bazdaric v. Almah Partners LLC, 41 N.Y.3d 310, 320-321 (2024)
- Maldonado v. Hines 1045 Ave. of the Ams. Invs. LLC, 227 A.D.3d 502, 503 (1st Dep't 2024)
- Rodriguez v. City of New York, 31 N.Y.3d 312, 324 (2018)
- Bucci v. City of New York, 223 A.D.3d 453, 455 (1st Dep't 2024)

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