

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

Gomez v Brookfield Props. One WFC Co., LLC

Gomez v. Brookfield Props. One WFC Co., LLC, 2026 NY Slip Op 03921 (N.Y. Ct. App. 2026) · No. Index Nos. 151809/24, 595462/25; Appeal No. 6941; Case No. 2025-07865 · Decided June 23, 2026

SUMMARY

The Appellate Division, First Department reversed an order denying Jimmy Mejia Gomez's motion for summary judgment on liability under New York Labor Law § 240(1). The court held that Gomez established prima facie entitlement to judgment based on his testimony that an eight-foot A-frame ladder moved and caused his fall, and that the defendants failed to raise a triable issue of fact or show that the motion was premature.

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.; González, J.; Rodriguez, J.; O'Neill Levy, J.
JURISDICTION	New York Appellate Division, First Department
DECIDED	June 23, 2026
DOCKET	Index Nos. 151809/24, 595462/25; Appeal No. 6941; Case No. 2025-07865
DISPOSITION	reversed
PROCEDURAL POSTURE	Plaintiff appealed from an order denying his motion for summary judgment on liability under Labor Law § 240(1), with leave to renew after further discovery.
STANDARD OF REVIEW	De novo review of the legal sufficiency of the summary-judgment record and whether the moving party established entitlement to judgment as a matter of law.
PRECEDENTIAL VALUE	Published
PARTIES	Jimmy Mejia Gomez v. Brookfield Properties One WFC Co., LLC

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether plaintiff established prima facie entitlement to summary judgment on liability under Labor Law § 240(1) through testimony that an A-frame ladder moved and caused his fall.
2. Whether defendants raised a triable issue of fact based on plaintiff's statements in post-accident medical and investigation reports that he lost his balance.
3. Whether defendants established a nonspeculative basis for deeming plaintiff's summary-judgment motion premature and requiring further discovery.
4. Whether Tulla Construction Corp. could claim lack of access to the pleadings when the pleadings had been filed electronically and were available to the parties and court.

HOLDINGS

1. Plaintiff established prima facie entitlement to summary judgment on his Labor Law § 240(1) cause of action through his testimony that the ladder moved from side to side and caused him to fall.
2. The statements in plaintiff's post-accident medical and investigation reports did not create a triable issue of fact because, even if considered, they were not inconsistent with his testimony that the ladder moved and caused his fall.
3. Defendants failed to establish that plaintiff's motion was premature or that a nonspeculative basis existed to require further discovery.
4. Tulla's argument lacked merit because the pleadings were filed electronically and were available to the parties and the court.

KEY QUOTATIONS

“pleadings were filed electronically and thus were available to the parties and the court” ([*1])

FACTUAL BACKGROUND

Plaintiff fell from an eight-foot A-frame ladder while installing sheetrock. He testified that the ladder moved from side to side and caused him to fall. Post-accident medical and investigation reports stated that he lost his balance, but the court found that statement was not inconsistent with his testimony about the ladder's movement.

PROCEDURAL HISTORY

The Supreme Court, New York County, denied plaintiff's motion for summary judgment on his Labor Law § 240(1) cause of action as premature, allowing renewal after further discovery. The Appellate Division unanimously reversed on the law and granted the motion.

DISPOSITION

reversed

CASES CITED

- Diaz v Boston Props., 2026 NY Slip Op 03114 (1st Dep't 2026)
- Begnoja v Hudson Riv. Park Trust, 238 AD3d 481, 481 (1st Dep't 2025)
- Rodas-Garcia v NYC United LLC, 225 AD3d 556, 557 (1st Dep't 2024)
- Rosario v Franklin Plaza Apts., Inc., 245 AD3d 490, 491 (1st Dep't 2026)
- Duran v ERY Retail Podium LLC, 238 AD3d 665, 665 (1st Dep't 2025)
- Simpertegui v Carlyle House Inc., 227 AD3d 486, 486 (1st Dep't 2024)
- Laporta v PPC Commercial, LLC, 204 AD3d 538, 539 (1st Dep't 2022)
- Studio A Showroom, LLC v Yoon, 99 AD3d 632, 632 (1st Dep't 2012)

OPINION

PER CURIAM.

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This decision is uncorrected and subject to revision before publication in the Official Reports. Jimmy Mejia Gomez, Appellant, v Brookfield Properties One WFC Co., LLC, Respondent, Structure Tone, LLC et al., Defendants. Brookfield Properties One WFC Co., LLC, Third-Party Plaintiff-Respondent, v Tulla Construction Corp., Third-Party Defendant-Respondent. Index Nos. Decided and Entered: June 23, 2026 Index No. 151809/24, 595462/25|Appeal No. 6941|Case No. 2025-07865| Before: Renwick, P.J., Scarpulla, González, Rodriguez, O'Neill Levy, JJ. Pollack, Pollack, Isaac & DeCicco, LLP, New York (Brian J. Isaac of counsel), for appellant.

Goetz Schenker Blee & Weiderhorn LLP, New York (Lisa De Lindsay of counsel), for Brookfield Properties One WFC Co., LLC, respondent. Nicoletti Hornig Namazi Eckert & Sheehan, New York (Jeremy A. Bernfeld of counsel), for Tulla Construction Corp., respondent. [*1] Order, Supreme Court, New York County (Mary V. Rosado, J.), entered on or about December 10, 2025, which, to the extent appealed from as limited by the briefs, denied plaintiff's motion for summary judgment on the issue of liability on his Labor Law § 240(1) cause of action, with leave to renew after further discovery, unanimously reversed, on the law, without costs, and the motion granted.

Plaintiff, who fell from an eight-foot A-frame ladder while installing sheetrock, established his prima facie entitlement to summary judgment on his Labor Law § 240(1) cause of action through his testimony that the ladder moved from side to side and caused him to fall (see *Diaz v Boston Props.*, — AD3d —, —, 2026 NY Slip Op 03114 [1st Dept 2026]; *Begnoja v Hudson Riv.*

Park Trust, 238 AD3d 481, 481 [1st Dept 2025]). In opposition defendant Brookfield Properties One WFC Co. LLC failed to raise a triable issue of fact. Even if plaintiff's hearsay statement contained in his post-accident medical report and post-accident investigation report that he lost his balance may be considered, it is not inconsistent with his testimony that the ladder moved and caused him to fall (see *Rodas-Garcia v NYC United LLC*, 225 AD3d 556, 557 [1st Dept 2024]; see also *Rosario v Franklin Plaza Apts., Inc.*, 245 AD3d 490, 491 [1st Dept 2026]; *Duran v ERY Retail Podium LLC*, 238 AD3d 665, 665 [1st Dept 2025]; cf. *Simpertegui v Carlyle House Inc.*, 227 AD3d 486, 486 [1st Dept 2024]).

Brookfield and third-party defendant Tulla Construction Corp. failed to establish that plaintiff's motion was premature or that a nonspeculative basis exists to find that further discovery is required (see *Laporta v PPC Commercial, LLC*, 204 AD3d 538, 539 [1st Dept 2022]). Tulla's argument lacks merits because the motion papers and "pleadings were filed electronically and thus were available to the parties and the court" (see *Studio A Showroom, LLC v Yoon*, 99 AD3d 632, 632 [1st Dept 2012]).

THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT. ENTERED: June 23, 2026 Court Decisions All Court Decisions Official Reports Service Bound Volumes Decision Search Resources RSS Feeds Style Manual Citation Tools Opinion Formatting & Privacy Guidelines Opinion Selection Criteria Legal Research Portal Site Index About About the Law Reporting Bureau About our Operations Contact Us Twitter Quick Contact Info 17 Lodge Street Albany, NY 12207 Phone: (518) 453-6900 Links to or from other sites do not signify endorsement or relationship with them.

PER CURIAM.

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Plaintiff-Respondent, Tulla Construction Corp., Third-Party Defendant-Respondent. Index Nos. Decided and Entered: June 23, 2026 Index No. 151809/24, 595462/25|Appeal No. 6941|Case No. 2025-07865| Before: Renwick, P.J., Scarpulla, González, Rodriguez, O'Neill Levy, JJ. Pollack, Pollack, Isaac & DeCicco, LLP, New York (Brian J. Isaac of counsel), for appellant.

Goetz Schenker Blee & Weiderhorn LLP, New York (Lisa De Lindsay of counsel), for Brookfield Properties One WFC Co., LLC, respondent. Nicoletti Hornig Namazi Eckert & Sheehan, New York (Jeremy A. Bernfeld of counsel), for Tulla Construction Corp., respondent. [*1] Order, Supreme Court, New York County (Mary V. Rosado, J.), entered on or about December 10, 2025, which, to the extent appealed from as limited by the briefs, denied plaintiff's motion for summary judgment on the issue of liability on his Labor Law § 240(1) cause of action, with leave to renew after further discovery, unanimously reversed, on the law, without costs, and the motion granted.

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