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State: New York

Worker Proved Liability on Labor Law Claim, Court Concludes: EAST [12/07/09]

A worker who was injured by a falling electrical panel proved that the property owner was liable for an elevation-related injury under New York's Scaffold Law, an appellate court ruled.

Case: Cardenas v. One State Street, No. 1645 113453/06, 12/3/09, published.

Facts: Jose Cardenas was working at a site owned by defendant One State Street, when he was instructed to pry an 80-lb. electrical panel from a wall and lower it to the floor. The large panel was located about six feet above the ground.

Cardenas attempted to pry the panel out of the wall with a crowbar to make it fall to the ground, as it was too heavy and bulky to lower to the ground by himself. As he dislodged the panel, it collided with some pipes that ran horizontally with the ceiling, which caused the panel to fall onto his left arm and shoulder, causing serious injury.

Cardenas filed Labor Law 200, 241(6), and 240(1) causes of action against One State Street. The statutes are more commonly known as New York's "Scaffold Laws."

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Procedural History: At trial, the defendant moved for summary judgment to dismiss the complaint, and Cardenas filed for summary judgment on the issue of liability for his 240(1) and 241(6) causes of action. The trial court denied both motions, and both parties appealed.

Analysis: The 1st Appellate Division of the New York Supreme Court determined that Cardenas was entitled to summary judgment for liability on the Labor Law 240(1) cause of action. This statute requires contractors and property owners to give workers proper safety gear to prevent elevation-related injuries.

The appellate court explained that Cardenas offered uncontroverted evidence that he did not have any safety equipment to help accomplish the removal of the panel, and that the failure to provide such equipment (such as a pulley, for example) was the proximate cause of his injuries.

The employer argued that Cardenas' admitted failure to test the panel before using the crowbar was the sole proximate cause of his accident. This did not persuade the appellate court, which pointed out that there was no evidence that Cardenas had adequate safety devices available.

Cardenas conceded that he had no viable claims under Labor Law 200.

Lastly, the appeals court determined that triable issues of fact existed as to Cardenas' Labor Law 241(6) action, meaning that neither party was entitled to summary judgment. This statute requires owners and contractors to provide construction, excavation, and demolition workers with "reasonable and adequate protection and safety . . ."

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The appellate justices determined that while the owner violated the proper standard of care it would owe Cardenas under the statute, a question still existed about whether Cardenas was performing demolition work at the time. Therefore, the court declined to grant either party summary judgment on the 241(6) cause of action, allowing it to proceed.

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Disposition: Modified. The appellate court granted Cardenas' motion for summary judgment on the issue of liability in his Labor Law 240(1) claim, and granted the defendants' motion to dismiss his Labor Law 200 claim. Because a triable issue of fact existed as to the Labor Law 241(6) cause of action, the court did not grant either party's motion for summary judgment.

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