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This memorandum is uncorrected and subject to revision before  
publication in the New York Reports.  
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1                    No.    218    SSM 25  
Edward Cohen, et al.,  
                         Respondents,  
                         v.  
Memorial Sloan-Kettering Cancer  
Center, et al.,  
                         Appellants.

Submitted by Matthew W. Naparty, for appellants.  
Submitted by David P. Kownacki, for respondents.

MEMORANDUM:

The order of the Appellate Division should be reversed,  
with costs, plaintiffs' cross motion for summary judgment on  
their Labor Law § 240(1) claim denied, defendants' motion for  
summary judgment dismissing the Labor Law § 240(1) claim granted,  
and the certified question answered in the negative.

No Labor Law § 240(1) liability exists where an injury

results from a separate hazard wholly unrelated to the risk which brought about the need for the safety device in the first place (see Nieves v Five Boro Air Conditioning & Refrig. Corp., 93 NY2d 914 [1999]; Melber v 6333 Main St., 91 NY2d 759, 763-64 [1998]). Here, the presence of two unconnected pipes protruding from a wall was not "the risk which brought about the need for the [ladder] in the first instance" (Nieves, 93 NY2d at 916 [citations omitted]), but was one of "the usual and ordinary dangers at a construction site" (id.) to which the "extraordinary protections of Labor Law 240(1) [do not] extend" (id. at 915).

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On review of submissions pursuant to section 500.11 of the Rules, order reversed, with costs, plaintiffs' cross motion for summary judgment on their Labor Law § 240(1) claim denied, defendants' motion for summary judgment dismissing the Labor Law § 240(1) claim granted, and certified question answered in the negative, in a memorandum. Chief Judge Kaye and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

Decided October 28, 2008