

As our holding in Outar v City of New York indicates, "falling object" liability under Labor Law § 240(1) is not limited to cases in which the falling object is in the process of being hoisted or secured (5 NY3d 731 [2005], affg 11 AD3d 593 [2d Dept 2004]). In this case, plaintiff alleges that he was struck by falling planks that had been placed over open doors as a makeshift shelf to facilitate the installation of an air conditioner above a doorway. We agree with the Appellate Division majority that triable questions of fact preclude summary judgment on plaintiff's Labor Law § 240(1) claim, including whether the planks were adequately secured in light of the purposes of the plank assembly and whether plaintiff caused the accident by jostling the doors after disregarding a warning not to enter the doorway area. Accordingly, the Appellate Division properly modified Supreme Court's order to the extent of denying partial summary judgment on plaintiff's Labor Law § 240(1) claim.

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On review of submissions pursuant to section 500.11 of the Rules, order affirmed, with costs, and certified question answered in the affirmative, in a memorandum. Chief Judge Kaye and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

Decided September 9, 2008