

**Zukowski v Metropolitan Transp. Auth. of the State  
of N.Y.**

2014 NY Slip Op 30451(U)

February 25, 2014

Supreme Court, New York County

Docket Number: 108879/11

Judge: Michael D. Stallman

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**SUPREME COURT OF THE STATE OF NEW YORK  
NEW YORK COUNTY**

PRESENT: \_\_\_\_\_  
Justice \_\_\_\_\_

PART \_\_\_\_\_

Index Number : 108879/2011  
ZUKOWSKI, RYSZARD  
vs  
METROPOLITAN TRANSPORTATION  
Sequence Number : 001  
PARTIAL SUMMARY JUDGMENT

INDEX NO. \_\_\_\_\_  
MOTION DATE \_\_\_\_\_  
MOTION SEQ. NO. \_\_\_\_\_

The following papers, numbered 1 to \_\_\_\_\_, were read on this motion to/for \_\_\_\_\_

Notice of Motion/Order to Show Cause — Affidavits — Exhibits \_\_\_\_\_ | No(s). 1-5  
Answering Affidavits — Exhibits \_\_\_\_\_ | No(s). 6-7  
Replying Affidavits \_\_\_\_\_ | No(s). 8

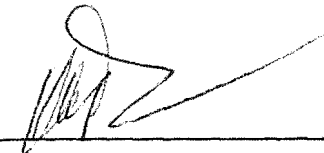
Upon the foregoing papers, it is ordered that this motion is *decided in accordance with the attached decision and order filed herewith.*

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE FOR THE FOLLOWING REASON(S):

**FILED**  
FEB 27 2014  
NEW YORK  
COUNTY CLERK'S OFFICE

**HON. MICHAEL D. STALLMAN**

Dated: 2/25/14

 \_\_\_\_\_, J.S.C.

1. CHECK ONE: .....  CASE-DISPOSED  NON-FINAL DISPOSITION
2. CHECK AS APPROPRIATE: Plaintiff's MOTION IS:  GRANTED  DENIED  GRANTED IN PART  OTHER
3. CHECK IF APPROPRIATE: .....  SETTLE ORDER  SUBMIT ORDER  
 DO NOT POST  FIDUCIARY APPOINTMENT  REFERENCE

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK: PART 21

-----X  
RYSZARD ZUKOWSKI,

Plaintiff,

Index No. 108879/11

- against -

METROPOLITAN TRANSPORTATION  
AUTHORITY OF THE STATE OF NEW YORK,  
MTA NEW YORK CITY TRANSIT AUTHORITY,  
THE CITY OF NEW YORK, LIGHTON  
INDUSTRIES, INC. and LIGHTON  
ELECTRIC, INC.,

**Decision and Order**

**FILED**

FEB 27 2014

Defendants

NEW YORK  
COUNTY CLERK'S OFFICE

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**HON. MICHAEL D. STALLMAN, J.:**

In this action, plaintiff, an electrician, alleges that he fell from a ladder while working at the Amsterdam Bus Depot located at Amsterdam Avenue, New York, New York (the premises) and sustained injuries.

Plaintiff Ryszard Zukowski moves, pursuant to CPLR 3212, for partial summary judgment in his favor on his Labor Law § 240 (1) claim against defendants Metropolitan Transportation Authority of the State of New York (the MTA), MTA New York City Transit Authority (the NYCTA) and Lighton Industries, Inc. (Lighton) (collectively, defendants).

## BACKGROUND

On the day of the accident, the premises was owned and operated by the MTA. The NYCTA hired defendant Lighton to serve as the general contractor on a project to replace the boilers at the premises (the project). Plaintiff was employed as an electrician by nonparty Greenpoint Electric Limited (Greenpoint), a subcontractor hired to perform electrical work for the project.

### *Plaintiff's Deposition Testimony*

Plaintiff testified that, on the day of the accident, he was installing wire conduit pipes as part of the project to install new boilers in the basement of the premises. Plaintiff was working with his partner, Slawomir Kosiba, under the supervision of his Greenpoint supervisor, Zenon Baj. At the time of the accident, plaintiff and Kosiba were running 10-foot lengths of three-quarter-inch conduit near the ceiling of the street-level floor of the premises.

In order to perform the overhead work, Greenpoint provided both plaintiff and Kosiba with a 10-foot A-frame fiberglass ladder, with rubber feet on the bottoms. On the day of the accident, plaintiff had a voltage tester on his tool belt, which could test whether or not a wire was live or turned off. Plaintiff did not inspect the work area for live wires before beginning his work. Plaintiff noted that, although there were harnesses available in the gang box at the premises, the use of a harness was not

necessary at the height at which he was working. Although plaintiff thought it was possible that a few mobile lifts might have been present at the premises, plaintiff was not aware of any scaffolding located there.

Plaintiff testified that, as he was attempting to descend from the seventh rung of his ladder (the ladder), and while “attempt[ing] to rest [an uninstalled conduit] on [some] pipes in order to have a free movement to descend,” he felt electricity begin to move through his body (defendants’ opposition, exhibit B, plaintiff’s tr at 55). Plaintiff further testified that, as the electrical current was moving through him, “the ladder [was] kind of shaking . . . [t]o the side, kind of escaping from under [his] feet” (defendants’ opposition, exhibit B, plaintiff’s tr at 68). The ladder then kicked out to plaintiff’s left, and the ladder and plaintiff fell together to the concrete floor.

Plaintiff testified that he did not know the exact source of his electrocution. He maintained that “[i]n that area, there was supposed to be nothing, no live wires” (defendants’ opposition, exhibit A, plaintiff’s tr at 82). When asked if it was his job on the morning of the accident to inspect the work area for live wires, plaintiff replied, “Yes, that was my job to inspect that, right” (*id.*). Plaintiff also stated that there was nothing wrong with the ladder, because it was “brand new” (defendants’ opposition, exhibit B, plaintiff’s tr at 66).

*Deposition Testimony of Slawomir Kosiba (Plaintiff’s Work Partner)*

In his deposition, Slawomir Kosiba testified that he witnessed plaintiff's accident. Kosiba explained that when plaintiff "started stepping from one foot to the other on the ladder, the ladder came out from under his feet, fell, and [plaintiff] fell" (plaintiff's notice of motion, exhibit 4, Kosiba's tr at 14). Kosiba also testified that, right after the accident, plaintiff told him that he was "shocked by the electric current" (*id.* at 16). Thereafter, Kosiba climbed a ladder to look at some cables which were hanging from the ceiling. Kosiba described the uninsulated cables as old, dirty and hard to see against the ceiling's black background. When he tested them, Kosiba found that the cables had approximately 110 volts of electrical current running through them. Kosiba maintained that, prior to beginning their work, he and plaintiff were not aware that there was live electricity in the cables.

*Deposition Testimony of Keith Summa (the NYCTA's Construction Manager) and the Memorandum of the MTA Investigation*

Keith Summa testified that he served as the NYCTA's construction manager on the day of the accident. Summa explained that the NYCTA requires that a survey or investigation be conducted in the work areas in order to determine whether any wires are open or exposed. This survey is to be conducted by "[t]he worker himself, the safety manager and the competent worker identified for that work" (plaintiff's notice of motion, exhibit 6, Summa tr at 49). Summa could not state whether or not such a survey was ever conducted in the area of plaintiff's accident.

Summa also testified that he was a participant in the investigatory meeting that served as a basis for the NYCTA's memorandum summarizing its investigation of the accident (the memorandum). The memorandum, dated May 6, 2011, stated that plaintiff was injured as a result of being electrocuted while installing conduit, which caused him to fall from the ladder. Notably, the memorandum made the following finding:

“As a result of comments made by the representatives of Greenpoint Electric Limited, Lighton Industries Inc. and the Safety Manager during the investigative interviews, Safety Management has determined that the root cause of this incident was the failure of the Greenpoint Electrical Foreman and the Safety Manager to properly inspect the prospective work area and identify all potential hazards”

(plaintiff's notice of motion, exhibit 5, NYCTA memorandum).

### **DISCUSSION**

“The proponent of a summary judgment motion must make a prima facie showing of entitlement to judgment as a matter of law, tendering sufficient evidence to eliminate any material issues of fact from the case” (*Santiago v Filstein*, 35 AD3d 184, 185-186 [1<sup>st</sup> Dept 2006], quoting *Winegrad v New York Univ. Med. Ctr.*, 64 NY2d 851, 853 [1985]). The burden then shifts to the motion's opponent to “present evidentiary facts in admissible form sufficient to raise a genuine, triable issue of fact” (*Mazurek v Metropolitan Museum of Art*, 27 AD3d 227, 228 [1<sup>st</sup> Dept 2006]; *Zuckerman v City of New York*, 49 NY2d 557, 562 [1980]; *DeRosa v City of New*

*York*, 30 AD3d 323, 325 [1<sup>st</sup> Dept 2006]). If there is any doubt as to the existence of a triable fact, the motion for summary judgment must be denied (*Rotuba Extruders v Ceppos*, 46 NY2d 223, 231 [1978]; *Grossman v Amalgamated Hous. Corp.*, 298 AD2d 224, 226 [1<sup>st</sup> Dept 2002]).

***Plaintiff's Labor Law § 240 (1) Claim Against Defendants***

Plaintiff moves for partial summary judgment in his favor as to liability on the Labor Law § 240 (1) claim against defendants. Labor Law § 240 (1), also known as the Scaffold Law (*Ryan v Morse Diesel*, 98 AD2d 615, 615 [1<sup>st</sup> Dept 1983]), provides, in relevant part:

“All contractors and owners and their agents . . . in the erection, demolition, repairing, altering, painting, cleaning or pointing of a building or structure shall furnish or erect, or cause to be furnished or erected for the performance of such labor, scaffolding, hoists, stays, ladders, slings, hangers, blocks, pulleys, braces, irons, ropes, and other devices which shall be so constructed, placed and operated as to give proper protection to a person so employed.”

“Labor Law § 240 (1) was designed to prevent those types of accidents in which the scaffold . . . or other protective device proved inadequate to shield the injured worker from harm directly flowing from the application of the force of gravity to an object or person” (*John v Baharestani*, 281 AD2d 114, 118 [1<sup>st</sup> Dept 2001], quoting *Ross v Curtis-Palmer Hydro-Elec. Co.*, 81 NY2d 494, 501 [1993]).

“Not every worker who falls at a construction site, and not every object

that falls on a worker, gives rise to the extraordinary protections of Labor Law § 240 (1). Rather, liability is contingent upon the existence of a hazard contemplated in section 240 (1) and the failure to use, or the inadequacy of, a safety device of the kind enumerated therein”

(*Narducci v Manhasset Bay Assoc.*, 96 NY2d 259, 267 [2001]; *Makarius v Port Auth. of N.Y. & N.J.*, 76 AD3d 805, 807 [1<sup>st</sup> Dept 2010] [“a distinction must be made between those accidents caused by the failure to provide a safety device required by Labor Law § 240 (1) and those caused by general hazards specific to a workplace”]; *Hill v Stahl*, 49 AD3d 438, 442 [1<sup>st</sup> Dept 2008]; *Buckley v Columbia Grammar & Preparatory*, 44 AD3d 263, 267 [1<sup>st</sup> Dept 2007]).

To prevail on a section 240 (1) claim, the plaintiff must show that the statute was violated and that this violation was a proximate cause of the plaintiff’s injuries (*Blake v Neighborhood Hous. Servs. of N.Y. City*, 1 NY3d 280, 287 [2003]; *Felker v Corning Inc.*, 90 NY2d 219, 224-225 [1997]; *Torres v Monroe Coll.*, 12 AD3d 261, 262 [1<sup>st</sup> Dept 2004]).

Initially, defendants argue that, as plaintiff testified that the ladder was “brand new,” plaintiff is not entitled to judgment in his favor, because the ladder was not defective in any way (defendants’ opposition, exhibit B, plaintiff’s tr at 66). However, plaintiff is not required to demonstrate that the ladder was defective, as “[i]t is sufficient for purposes of liability under section 240 (1) that adequate safety devices to . . . protect plaintiff from falling were absent” (*Orellano v 29 E. 37<sup>th</sup> St.*

*Realty Corp.*, 292 AD2d 289, 291 [1<sup>st</sup> Dept 2002]; *McCarthy v Turner Constr., Inc.*, 52 AD3d 333, 333-334 [1<sup>st</sup> Dept 2008] [where plaintiff sustained injuries “when the unsecured ladder he was standing on to drill holes in a ceiling tipped over,” the plaintiff was not required to demonstrate, as part of his prima facie showing, that the ladder he was working on at the time of the accident was defective]; *Montalvo v J. Petrocelli Constr., Inc.*, 8 AD3d 173, 174 [1<sup>st</sup> Dept 2004]).

In fact, contrary to defendant’s argument, this is “not a case where plaintiff simply lost his balance and fell from a secured ladder” (*Lipari v AT Spring, LLC*, 92 AD3d 502, 504 [1<sup>st</sup> Dept 2012]). Rather, plaintiff was caused to fall and become injured, because the ladder was not the proper safety device for the job at hand. “[T]he availability of a particular safety device will not shield an owner or general contractor from absolute liability if the device alone is not sufficient to provide safety without the use of additional precautionary devices or measures” (*Nimirovski v Vornado Realty Trust Co.*, 29 AD3d 762, 762 [2d Dept 2006], quoting *Conway v New York State Teachers’ Retirement Sys.*, 141 AD2d 957, 958-959 [3d Dept 1988]; *Lightfoot v State of New York*, 245 AD2d 488, 489 [2d Dept 1997]; *Pritchard v Murray Walter, Inc.*, 157 AD2d 1012, 1013 [3d Dept 1990]).

Under the facts of this case, it was foreseeable that plaintiff, an electrician in the process of connecting wires, might experience electrocution during the

performance of his work. As such, additional safety devices to prevent him from falling were required (*see Ortega v City of New York*, 95 AD3d 125, 131 [1<sup>st</sup> Dept 2012] [where the plaintiff was working on an elevated work platform that “was taller than it was wide and rested upon wooden planks atop an uneven, gravel surface,” the Court considered that “[i]t was foreseeable both that the plaintiff could fall off the elevated work platform and that the . . . rack could topple over”]; *Nimirovski v Vornado Realty Trust Co.*, 29 AD3d at 762-763 [as it was foreseeable that pieces of metal being dropped to the floor could strike the scaffold and cause it to shake, additional safety devices were required to satisfy Labor Law § 240 (1)]; *Bush v Goodyear Tire & Rubber Co.*, 9 AD3d 252, 253 [1<sup>st</sup> Dept 2004]; *Kollbeck v 417 FS Realty*, 4 AD3d 314, 314 [1<sup>st</sup> Dept 2004]).

Notably, in his affidavit, dated August 30, 2013, plaintiff’s expert, Daniel Paine, C.S.E., stated that, in his professional opinion, “the use of an A-frame ladder with no rails violated accepted industry practice for this specific work, and failed to provide ‘proper protection’ from the gravity related risk of falling off the ladder, or having the ladder kick out from under [plaintiff], as a result of the nature of the work” (plaintiff’s notice of motion, Paine affidavit, at 3). Paine noted that, as plaintiff was working with both hands, “he was totally reliant on the steadiness of his feet on a ladder step to protect him from the danger of falling” (*id.*). In addition, Paine

explained that, as plaintiff was working near live electricity, it was “entirely foreseeable that he would receive an electric shock, thus necessitating greater fall protection than is provided by a ladder” (*id.*). As Paine opined, a device with rails, such as a Baker scaffold, would have been more suitable for the job at hand.<sup>1</sup>

In addition, plaintiff testified that, as the electrical current was moving through him, “the ladder [was] kind of shaking . . . [t]o the side, kind of escaping from under [his] feet,” before ultimately falling to the ground with him (defendants’ opposition, exhibit B, plaintiff’s tr at 68). “Where a ladder is offered as a work-site safety device, it must be sufficient to provide proper protection. It is well settled that [the] failure to properly secure a ladder, to ensure that it remain steady and erect while being used, constitutes a violation of Labor Law § 240 (1)” (*Montalvo v J. Petrocelli Constr., Inc.*, 8 AD3d at 174 [1<sup>st</sup> Dept 2004] [where plaintiff was injured as a result of unsteady ladder, plaintiff did not need to show that ladder was defective for the purposes of liability under Labor Law § 240 (1), only that adequate safety devices to prevent the ladder from slipping or to protect the plaintiff from falling were absent], quoting *Kijak v 330 Madison Ave. Corp.*, 251 AD2d 152, 153 [1<sup>st</sup> Dept 1998]; *Klein v City of New York*, 89 NY2d 833, 835 [1996]; *Hart v Turner Constr. Co.*, 30 AD3d

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<sup>1</sup>It should be noted that defendants have not put forth any argument that the area of the bus depot where plaintiff was working could not fit a baker scaffold or mobile lift.

213, 214 [1<sup>st</sup> Dept 2006] [plaintiff met his prima facie burden through testimony that while he performed his assigned work, the eight-foot ladder on which he was standing shifted, causing him to fall to the ground]).

“[A] presumption in favor of plaintiff arises when a scaffold or ladder collapses or malfunctions ‘for no apparent reason’” (*Quattrocchi v F.J. Sciame Constr. Corp.*, 44 AD3d 377, 381 [1<sup>st</sup> Dept 2007], quoting *Blake v Neighborhood Hous. Servs. of N.Y. City*, 1 NY3d at 289). “Whether the device provided proper protection is a question of fact, except when the device collapses, moves, falls, or otherwise fails to support the plaintiff and his materials” (*Nelson v Ciba-Geigy*, 268 AD2d 570, 572 [2d Dept 2000]; *Peralta v American Tel. and Tel. Co.*, 29 AD3d 493, 494 [1<sup>st</sup> Dept 2006] [unrefuted evidence that the unsecured ladder moved, combined with evidence that no other safety devices were provided, warranted a finding that the owners were liable under Labor Law § 240 (1)]; *Chlap v 43<sup>rd</sup> St.-Second Ave. Corp.*, 18 AD3d 598, 598 [2d Dept 2005]).

Defendants also assert that they are not liable for plaintiff’s injuries under Labor Law § 240 (1), because plaintiff testified that it was his responsibility to inspect the work area to make sure that there was no live electricity present, plaintiff was the sole proximate cause of his injuries. “When the defendant presents some evidence that the device furnished was adequate and properly placed and that the

conduct of the plaintiff may be the sole proximate cause of his or her injuries, partial summary judgment on the issue of liability will be denied because factual issues exist” (*Ball v Cascade Tissue Group-N.Y., Inc.*, 36 AD3d 1187, 1188 [3d Dept 2007]; *Robinson v East Med. Ctr., LP*, 6 NY3d 550, 554 [2006] [where a plaintiff’s own actions are the sole proximate cause of the accident, there can be no liability under Labor Law § 240 (1)]; *Montgomery v Federal Express Corp.*, 4 NY3d 805, 806 [2005]; *Cahill v Triborough Bridge & Tunnel Auth.*, 4 NY3d 35, 39 [2004] [where an employer has made available adequate safety devices and an employee has been instructed to use them, the employee may not recover under Labor Law § 240 (1) for injuries caused solely by his violation of those instructions]; *Blake v Neighborhood Hous. Servs. of N.Y. City*, 1 NY3d at 290).

While it is true that plaintiff acknowledged responsibility for making sure that the work area was free from the danger of live wires, this was not plaintiff’s sole responsibility. The memorandum, which summarized the NYCTA’s findings following its investigation of the accident, stated that the “root cause” of the accident was the Greenpoint foreman and the safety manager’s failure “to properly inspect the prospective work area and identify all potential hazards” (plaintiff’s notice of motion, exhibit 5, NYCTA memorandum). In addition, Summa testified that the NYCTA requires that a survey or investigation be conducted by not only the worker, but also

the safety manager for the project and “the competent worker identified for that work” (plaintiff’s notice of motion, exhibit 6, Summa tr at 49).

In any event, plaintiff’s conduct in not checking for live wires before beginning work goes to the issue of comparative fault, and comparative fault is not a defense to a Labor Law § 240 (1) cause of action, because the statute imposes absolute liability once a violation is shown (*Bland v Manocherian*, 66 NY2d 452, 460 [1985]; *Velasco v Green-Wood Cemetery*, 8 AD3d 88, 89 [1<sup>st</sup> Dept 2004] [“Given an unsecured ladder and no other safety devices, plaintiff cannot be held solely to blame for his injuries”]). “[T]he Labor Law does not require a plaintiff to have acted in a manner that is completely free from negligence. It is absolutely clear that ‘if a statutory violation is a proximate cause of an injury, the plaintiff cannot be solely to blame for it’” (*Hernandez v Bethel United Methodist Church of N.Y.*, 49 AD3d 251, 253 [1<sup>st</sup> Dept 2008], quoting *Blake v Neighborhood Hous. Servs. of N.Y.*, 1 NY3d at 290).

Where “the owner or contractor fails to provide adequate safety devices to protect workers from elevation-related injuries and that failure is *a* cause of plaintiff’s injury, the negligence, if any, of the injured worker is of no consequence [internal quotation marks and citations omitted]” (*Tavarez v Weissman*, 297 AD2d 245, 247 [1<sup>st</sup> Dept 2002]; see *Ranieri v Holt Constr. Corp.*, 33 AD3d 425, 425 [1<sup>st</sup> Dept 2006] [Court found that failure to supply plaintiff with a properly secured ladder or any

safety devices was a proximate cause of his fall, and there was no reasonable view of the evidence to support defendants' contention that plaintiff was the sole proximate cause of his injuries]; *Lopez v Melidis*, 31 AD3d 351, 351 [1<sup>st</sup> Dept 2006]; *Torres v Monroe Coll.*, 12 AD3d at 262 [Court noted that even if another cause of the accident was plaintiff's own improper use of an unopened A-frame ladder leaned against the wall from atop the scaffold, defendant's failure to ensure that the scaffold plaintiff needed to use to perform his assigned task provided proper protection, and was properly secured and braced, constituted a proximate cause of the accident]).

Moreover, defendants have not demonstrated that this is a case of a recalcitrant worker, wherein a plaintiff was specifically instructed to use a safety device and refused to do so (*see Kosavick v Tishman Constr. Corp. of N.Y.*, 50 AD3d 287, 288 [1<sup>st</sup> Dept 2008]; *Olszewski v Park Terrace Gardens*, 306 AD2d 128, 128-129 [1<sup>st</sup> Dept 2003]; *Morrison v City of New York*, 306 AD2d 86, 87 [1<sup>st</sup> Dept 2003]; *Crespo v Triad, Inc.*, 294 AD2d 145, 147 [1<sup>st</sup> Dept 2002]; *Sanango v 200 E. 16<sup>th</sup> St. Hous. Corp.*, 290 AD2d 228, 228-229 [1<sup>st</sup> Dept 2002]).

Importantly, Labor Law § 240 (1) "is designed to protect workers from gravity-related hazards such as falling from a height, and must be liberally construed to accomplish the purpose for which it was framed [internal citations omitted]" (*Valensisi v Greens at Half Hollow, LLC*, 33 AD3d 693, 695 [2d Dept 2006]). "As

has been often stated, the purpose of Labor Law § 240 (1) is to protect workers by placing responsibility for safety practices at construction sites on owners and general contractors, ‘those best suited to bear that responsibility’ instead of on the workers, who are not in a position to protect themselves” (*John v Baharestani*, 281 AD2d at 117, quoting *Ross v Curtis-Palmer Hydro-Elec. Co.*, 81 NY2d at 500).

Finally, defendants’ unsupported argument that plaintiff’s affidavit is not in compliance with the CPLR, because he submitted only an English version, is without merit. CPLR 2101 (b) does not require that a person who does not speak English also submit an affidavit in their native language. Instead, CPLR 2101 (b) states:

“Each paper served or filed shall be in the English language which, were practicable, shall be of ordinary usage. Where an affidavit or exhibit annexed to a paper served or filed is in a foreign language, it shall be accompanied by an English translation and an affidavit by the translator stating his qualifications and that the translation is accurate.”

(*see also* McKinney’s CPLR Comment 2101:2).

As plaintiff’s affidavit, which was submitted in English, was also accompanied by a translator’s affidavit stating the accuracy of translation, as well as the translator’s qualifications, plaintiff’s affidavit is not defective. Therefore, defendants’ argument goes to the weight of the affidavit, and not its admissibility. Thus, plaintiff is entitled to partial summary judgment on the issue of liability under Labor Law § 240 (1) against defendants.

**CONCLUSION**

For the foregoing reasons, it is hereby

**ORDERED** that plaintiff Ryszard Zukowski's motion, pursuant to CPLR 3212, for partial summary judgment in his favor on the Labor Law § 240 (1) claim against defendants Metropolitan Transportation Authority of the State of New York, MTA New York City Transit Authority and Lighton Industries, Inc. is granted; and it is further

**ORDERED** that the remainder of the action shall continue.

Dated: February 25, 2014  
New York, New York

ENTER:



J.S.C.

**FILED**  
FEB 27 2014  
NEW YORK  
COUNTY CLERKS OFFICE