

**Cong Bing Zhong v Bridgewater Land LLC**

2025 NY Slip Op 35209(U)

December 22, 2025

Supreme Court, Kings County

Docket Number: Index No. 504734/2022

Judge: Devin P. Cohen

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**Supreme Court of the State of New York  
County of Kings**

**Index Number** 504734/2022  
Seqs. 003, 004

Part LL1M

\_\_\_\_\_  
CONG BING ZHONG,  
Plaintiff,

against

BRIDGEWATER LAND LLC, ABOVE  
AND BEYOND PLUMBING & HEATING  
CORP., KJK ELECTRICAL INC., AND  
REGIONAL MANAGEMENT &  
CONSULTING INC.,  
Defendants.

**DECISION/ORDER**

\_\_\_\_\_  
BRIDGEWATER LAND LLC,  
Third-Party Plaintiff,

against

KJK ELECTRIC INC.,  
Third-Party Defendants.

As required by CPLR 2219 (a), the following e-filed documents, listed by NYSCEF document numbers, were considered on this motion: 60-82, 114, 118-129.

Upon the foregoing papers, plaintiff's motion for summary judgment against defendant Bridgewater Land LLC (Bridgewater) (Seq. 003) and Bridgewater's cross-motion for partial summary judgment (Seq. 004) are decided as follows:

**Introduction and Factual Background**

Plaintiff commenced this action to recover for damages he claims to have sustained on June 6, 2021 while performing work at a construction/renovation site located at 79 Bridgewater

Street, Brooklyn, NY (the premises). It is undisputed that Bridgewater owned the premises and leased it to defendant KJK Electric Inc. (KJK). KJK hired Gun Leung Ma to paint the warehouse; Mr. Ma employed the plaintiff.

Plaintiff testified as follows: On the date of his accident, plaintiff was working as a painter at the premises (Zhong EBT at 18). Plaintiff's accident occurred on his first day at the job (*id.* at 21). Mr. Ma and one other worker were present on that date, and plaintiff was instructed to spray paint the premises (*id.*). Plaintiff was instructed to stand on a mobile 15-to-16-foot, two-level scaffold, despite never having used a scaffold to paint before and without receiving any training or safety instructions (*id.* at 43–44). Plaintiff requested a harness and Mr. Ma said that he did not have one (*id.* at 56–57). The scaffold also lacked safety rails (*id.* at 66, 68–69). When plaintiff finished painting an area inside the premises, his co-worker would move the scaffold (*id.* at 64). Although plaintiff testified that he would tell his co-worker when he was done painting in a given area, he did not testify that he gave his co-worker any instructions about whether or where to move the scaffold (*id.* at 60–61). While plaintiff's co-worker was moving the scaffold to a new area, the scaffold and plaintiff fell over onto the floor (*id.* at 60, 68). The plaintiff's co-worker was not deposed and did not provide an affidavit.

### Analysis

#### **Labor Law § 240 (1)**

Liability under Labor Law § 240 (1) is “absolute” where the failure or absence of a safety device enumerated by the statute (*e.g.* scaffold, harness, and safety rails) is a proximate cause of the plaintiff's accident (*Blake v Neighborhood Hous. Services of New York City, Inc.*, 1 N.Y.3d 280, 287 [2003] [citing *Haines v. New York Tel. Co.*, 46 N.Y.2d 132, 136 (1978) and *Ross v Curtis-Palmer Hydro-Elec. Co.*, 81 N.Y.2d 494, 500 (1993)]).

Plaintiff's un rebutted testimony that he was provided with a scaffold that tipped over, causing him to fall to the ground, and that he was not provided with either safety rails or a harness, is sufficient to make out his prima facie entitlement to summary judgment. In opposition, defendant Bridgewater fails to raise a triable issue of material fact. Although counsel alleges in opposition that the plaintiff instructed his co-worker to move the scaffold and therefore may have been the sole proximate cause of his accident, this is mere speculation unsupported by the record. The plaintiff did not testify that he gave his co-worker instructions, and there is no testimony or affidavit from the plaintiff's co-worker. In any event, it is undisputed that the plaintiff was not provided with adequate safety devices, including a harness and safety railings on the scaffold, each of which would constitute a statutory violation of Labor Law § 240 (1). Therefore, even if the court found that plaintiff instructed his co-worker to move the scaffold, it could only be evidence of comparative fault, which is not a defense to liability under Labor Law § 240 (1) (*Ross*, 81 NY2d at 502 n. 4). Therefore, plaintiff's motion for summary judgment is granted.

### **Labor Law § 200**

Defendant Bridgewater cross-moved to dismiss plaintiff's Labor Law § 200 claim on the basis that it lacked authority to direct the means and methods of plaintiff's work, and did not have actual or constructive notice of a dangerous condition. Plaintiff did not oppose Bridgewater's cross-motion; therefore, the cross-motion is granted.

### **Conclusion**

Plaintiff's motion for summary judgment on his Labor Law § 240 (1) claim against Bridgewater (Seq. 003) is granted.

Bridgewater's cross-motion for summary judgment on plaintiff's Labor Law § 200 claim (Seq. 004) is granted without opposition.

This constitutes the decision and order of the court.

December 22, 2025  
DATE



DEVIN P. COHEN  
Justice of the Supreme Court