

St. Fleur v 11 Hoyt Prop. Owner L.P.

2026 NY Slip Op 30273(U)

January 22, 2026

Supreme Court, New York County

Docket Number: Index No. 154084/2020

Judge: Phaedra F. Perry-Bond

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. PHAEDRA F. PERRY-BOND PART 35

Justice

INDEX NO. 154084/2020

SENDER ST. FLEUR,

Plaintiff,

MOTION DATE 04/05/2023, 04/03/2023

- v -

MOTION SEQ. NO. 001 002

11 HOYT PROPERTY OWNER L.P., TRITON CONSTRUCTION COMPANY, LLC

Defendant.

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 001) 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 64, 66, 70, 71, 72

were read on this motion to/for JUDGMENT - SUMMARY

The following e-filed documents, listed by NYSCEF document number (Motion 002) 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 63, 65, 67, 68, 69, 73, 74

were read on this motion to/for JUDGMENT - SUMMARY

Upon the foregoing documents, motion sequences 001 and 002 are consolidated for disposition and decided as follows:

- A. Defendants' motion for summary judgment dismissing Plaintiff Sender St. Fleur's ("Plaintiff") Complaint ("Mot. Seq. 001") is granted in part and denied in part.
B. Plaintiff's motion for summary judgment on his Labor Law § 240(1) claim against Defendants 11 Hoyt Property Owner L.P. ("Hoyt") and Triton Construction Company ("Triton") is granted.

I. Background

On November 13, 2019, non-party Demar Plumbing employed Plaintiff as a plumber at a construction project at 11 Hoyt Street, Brooklyn, New York (the "Premises") (NYSCEF Doc. 34 at 20; 39). Plaintiff was working in the basement and had to install pipes and clamps (id. at 55).

The pipes weighed hundreds of pounds and required three workers to lift one pipes (*id.* at 59; 63). Plaintiff lifted one end of the pipe to a stand so it could be soldered to the ceiling while his coworkers went to lift the other end of the pipe, but the pipe slipped and fell from the three to four foot tall stand and hit Plaintiff, striking his right thigh, foot, knocking him to the ground, and crushing his right thumb (*id.* at 59; 64-65). Plaintiff testified the stands used did not have anything to secure the pipe in place, which caused the pipe to fall on him (*id.* at 71).

Hoyt owned the Premises (NYSCEF Doc. 37). Triton served as the general contractor at the Premises and retained Demar Plumbing (NYSCEF Doc. 35 at 16-18). Plaintiff and Defendants each move for summary judgment against one another. The motions are consolidated for disposition and decided in accordance with the reasons that follow.

II. Discussion

A. Plaintiff's Motion ("Mot. Seq. 002")

Plaintiff's motion for summary judgment on his Labor Law § 240(1) claim asserted against Defendants is granted. Plaintiff was engaged in construction work within the meaning of Labor Law § 240(1) as he was installing pipes into a newly construction building (*see, e.g. Mustafaj v City of New York*, --- N.Y.S.3d ----, 2026 NY Slip Op 00058 at *1 [1st Dept 2026]). Hoyt, as the owner of the Premises, and Triton, as general contractor, are proper Labor Law defendants.¹ Finally, Plaintiff met his *prima facie* burden of establishing a Labor Law § 240(1) claim through his uncontroverted testimony that a 400 pound pipe fell on him from an elevated stand due to the stand lacking any devices to secure the pipe properly as it remained at an elevation (*see, Marrero*

¹ Although Triton claims it was just the construction manager, Triton's witness admitted that Triton was responsible for hiring and retaining subcontractors as well as coordinating the various trades, making it, at a minimum, a "statutory agent" of Hoyt, which is sufficient to impose liability under Labor Law § 240(1) (*see Douglas v Tishman Constr. Corp.*, 205 AD3d 570, 571 [1st Dept 2022]; *see also Lind v Tishman Constr. Corp. of N.Y.*, 180 AD3d 505 [1st Dept 2020]).

v 2075 Holding Co. LLC, 106 AD3d 408, 409 [1st Dept 2013]). The burden now shifts to Defendants to raise a triable issue of fact.

In opposition, Defendants fail to raise a triable issue of fact. Defendants' argument that the height from which the pipe fell was *de minimis* is severely contradicted by Court of Appeals and First Department precedent, who have held that considering the totality of the circumstances and the extreme weight of the material that fell, the elevation differential cannot be considered *de minimis* (see *Runner v New York Stock Exchange, Inc.*, 13 NY3d 599, 605 ["The elevation differential here involved cannot be viewed as *de minimis*, particularly given the weight of the object and the amount of force it was capable of generating"]; *Ruiz v Phipps Houses*, 216 AD3d 522 [1st Dept 2023]; *Landi v SDS William Street, LLC*, 146 AD3d 33, 38 [1st Dept 2016]). Defendants' argument that Plaintiff's accident involved a routine workplace risk that does not fall within the ambit of Labor Law § 240(1) is likewise without merit. The elevated pipe was a load which was in the process of being hoisted and required securing, but the stands used, which had no means of securing the pipe, were insufficient, leading to Plaintiff's injury. This is precisely the type of hazard which Labor Law § 240(1) seeks to guard against (see also *Mejia v 770 Broadway Owner, LLC*, 234 AD3d 615, 616 [1st Dept 2025]; *Diaz v HHC TS Reit LLC*, 193 AD3d 640 [1st Dept 2021]). Therefore, Plaintiff's motion for summary judgment on his Labor Law § 240(1) claim is granted.

B. Defendants' Motion for Summary Judgment ("Mot. Seq. 001")

Defendants' motion for summary judgment dismissing Plaintiff's Complaint is granted in part and denied in part. In light of Plaintiff being awarded summary judgment on his Labor Law § 240(1) claim, the branch of Defendants' motion which sought dismissal of Plaintiff's Labor Law § 240(1) claim is denied. Plaintiff does not oppose dismissal of his Labor Law §§ 241(6) and 200

claims, so those claims are dismissed as abandoned.² Likewise, there being no opposition to dismissal of the common law negligence claims asserted against Defendants, those claims too are dismissed as abandoned.

Accordingly, it is hereby,

ORDERED that Defendants' motion for summary judgment is granted to the extent that Plaintiff's Labor Law §§ 241(6) and 200 claims and Plaintiff's common law negligence claim are dismissed without opposition, but the remainder of Defendants' motion is denied; and it is further

ORDERED that Plaintiff's motion for summary judgment on his Labor Law § 240(1) claim asserted against Defendants is granted; and it is further

ORDERED that within ten days of entry, counsel for Plaintiff shall serve a copy of this Decision and Order, with notice of entry, on all parties via NYSCEF.

This constitutes the Decision and Order of the Court

1/22/26
DATE


HON. PHAEDRA F. PERRY-BOND, J.S.C.

CHECK ONE:	<input type="checkbox"/> CASE DISPOSED	<input type="checkbox"/> DENIED	<input checked="" type="checkbox"/> NON-FINAL DISPOSITION	<input type="checkbox"/> OTHER
APPLICATION:	<input type="checkbox"/> GRANTED		<input checked="" type="checkbox"/> GRANTED IN PART	
CHECK IF APPROPRIATE:	<input type="checkbox"/> SETTLE ORDER		<input type="checkbox"/> SUBMIT ORDER	
	<input type="checkbox"/> INCLUDES TRANSFER/REASSIGN		<input type="checkbox"/> FIDUCIARY APPOINTMENT	<input type="checkbox"/> REFERENCE

² In any event, the Labor Law § 241(6) claims are academic in light of Plaintiff being awarded summary judgment on his Labor Law § 240(1) claim (*see Nyanteh v 590 Madison Avenue, LLC*, 238 AD3d 643, 643 [1st Dept 2025]).