

Filis v Trustees of Columbia Univ. in the City of N.Y.
2026 NY Slip Op 31857(U)
April 20, 2026
Supreme Court, New York County
Docket Number: Index No. 154416/2022
Judge: Emily Morales-Minerva
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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: PART 42M

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IOANNIS FILIS

Plaintiff,

- v -

THE TRUSTEES OF COLUMBIA UNIVERSITY IN THE
CITY OF NEW YORK,

Defendant.

INDEX NO. 154416/2022

MOTION DATE 04/17/2025

MOTION SEQ. NO. 001

**DECISION + ORDER ON
MOTION**

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45

were read on this motion to/for JUDGMENT - SUMMARY.

APPEARANCES:

Zaremba Brown, PLLC, New York, New York (Helina Michelle Manesis, Esq.) for plaintiff.

Hannum, Feretic, Prendergast & Merlino, LLC, New York, New York (Douglas Jordan Domsy, Esq., of counsel) for defendant.

HON. EMILY MORALES-MINERVA:

In this Labor Law action for injuries allegedly sustained while making repairs to premises, plaintiff IOANNIS FILIS moves, by notice of motion (sequence number 001), pursuant to CPLR § 3212, for an order granting it summary judgment on liability against defendant THE TRUSTEES OF COLUMBIA UNIVERSITY IN THE CITY OF NEW YORK. Defendant appears and submits written opposition to the motion.

For the reasons set forth below, the court denies the motion in its entirety.

BACKGROUND

Defendant THE TRUSTEES OF COLUMBIA UNIVERSITY IN THE CITY OF NEW YORK (owner) owns the building located at 615 W 131st Street, New York, New York 10027 (job site) (see New York State Court Electronic Filing System [NYSCEF] Doc. No. 02, verified complaint, ¶ 6; see also NYSCEF Doc. No. 19, deed to the premises). In or around September 2021, owner hired non-party Mamais Construction Corp. (contractor) to perform construction and renovation work at the premises, which included the repair of a damaged basement ceiling (see NYSCEF Doc. No. 02, verified complaint, ¶ 4; see also NYSCEF Doc. No. 21, work order dated September 14, 2021). Contractor hired plaintiff IOANNIS FILIS (carpenter) to complete the ceiling repair (see NYSCEF Doc. No. 18, deposition transcript of carpenter at 37, lines 5-10).

On or around December 03, 2021, carpenter arrived at the job site and worked on the basement ceiling with non-party Juan De La Cruz (co-worker) (see id., at 47, lines 14-24; see also NYSCEF Doc. No. 16, deposition transcript of non-party J. De La Cruz at 14, lines 4-7). The ceiling height at the work site is unclear (see NYSCEF Doc. No. 17, deposition transcript of non-

party Andreas Stefanakis at 27, lines 5-9 ["Q. How high was the ceiling in the area of the incident? A. I cannot remember; I think it was 16 feet"]; see also NYSCEF Doc. No. 16, deposition transcript of J. De La Cruz, at 16, lines 5-7 ["Q. And how high was the ceiling in this room where this project took place? A. 13 to 14 feet"]; NYSCEF Doc. No. 18, deposition transcript of carpenter at 53, lines 21-24 ["Q. And describe for me, how high is the ceiling? A. Around 18 to 20 feet up"])).

Non-party foreperson Andreas Stefanakis (foreperson) attests that the scaffold being used on this job "had a double stack," i.e., one scaffold placed atop another (see NYSCEF Doc. No. 17, deposition transcript of non-party Andreas Stefanakis at 23, line 11; see also NYSCEF Doc. No. 18, deposition transcript of carpenter at 75, lines 21-24 ["Q. This scaffolding that you were on was actually one scaffold on top of another, correct? A. Exactly"])). Foreperson also attests that a double stacked scaffold did not always require outriggers to be stable, and that the scaffold at the premises was stable without them (see NYSCEF Doc. No. 17, deposition transcript of non-party Andreas Stefanakis at 24, lines 7-11, 23-25, and at 25, lines 1-12)).

Carpenter worked on the basement ceiling with the scaffold on the premises. At some point, co-worker observed carpenter standing on a cabinet covered with a plastic tarp near the scaffold (see NYSCEF Doc. No. 16, deposition transcript of J. De

La Cruz at 59, lines 13-14). While observing carpenter standing there, co-worker states he warned carpenter that carpenter may fall and then turned from the scaffold to get a dustpan (see NYSCEF Doc. No. 16, deposition transcript of J. De La Cruz at 118, lines 10-20).

According to co-worker, he had his back to the scaffold for at or around one minute (see id., at 118, lines 22-25, and at 119, lines 1-5). During that time, carpenter attests he began descending the scaffold and fell when the scaffold "moved" (see NYSCEF Doc. No. 18, deposition transcript of carpenter at 54, lines 22-25).

Co-worker returned to find carpenter "on the ground" next to the plastic tarp that he previously observed covering the cabinet (NYSCEF Doc. No. 16, deposition transcript of J. De La Cruz at 59, lines 6-10 ["Q. the plastic on the ground next to [carpenter], where did that plastic come from?, A. that is the plastic that was [] covering where he was standing"])). While reposed on the ground, after the fall, a plastic tarp was visible underneath carpenter, in part, and on the side of carpenter, in part (see NYSCEF Doc. Nos. 25 and 26, photographs submitted by carpenter [depicting carpenter lying on the ground adjacent to the scaffold on the date of the fall]).

Following the accident, carpenter commenced this action against owner, (1) asserting a violation of Labor Law § 240,

which governs scaffolding and other devices for use of employees,¹ and (2) demanding compensatory damages in "an amount which exceeds the jurisdictional limits of all lower courts" plus costs and disbursements (see NYSCEF Doc. No. 02, verified complaint; see also CPLR § 3017 [c] [governing demands for relief made in personal injury actions]). Owner answered, asserting 11 affirmative defenses (see NYSCEF Doc. No. 08, answer). Discovery is complete, and carpenter timely filed note of issue.

¹ Labor Law § 240 provides:

"1. All contractors and owners and their agents, except owners of one and two-family dwellings who contract for but do not direct or control the work, 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. No liability pursuant to this subdivision for the failure to provide protection to a person so employed shall be imposed on professional engineers as provided for in article one hundred forty-five of the education law, architects as provided for in article one hundred forty-seven of such law or landscape architects as provided for in article one hundred forty-eight of such law who do not direct or control the work for activities other than planning and design. This exception shall not diminish or extinguish any liability of professional engineers or architects or landscape architects arising under the common law or any other provision of law.

"2. Scaffolding or staging more than twenty feet from the ground or floor, swung or suspended from an overhead support or erected with stationary supports, except scaffolding wholly within the interior of a building and covering the entire floor space of any room therein, shall have a safety rail of suitable material properly attached, bolted, braced or otherwise secured, rising at least thirty-four inches above the floor or main portions of such scaffolding or staging and extending along the entire length of the outside and the ends thereof, with only such openings as may be necessary for the delivery of materials. Such scaffolding or staging shall be so fastened as to prevent it from swaying from the building or structure.

"3. All scaffolding shall be so constructed as to bear four times the maximum weight required to be dependent therefrom or placed thereon when in use" (emphasis added).

Carpenter also timely filed the instant motion for an order, pursuant to CPLR § 3212, granting him summary judgment against owner on liability. Carpenter argues that he is entitled to judgment as (1) the work he was performing falls within the scope of Labor Law § 240 (1); (2) owner failed to provide carpenter with adequate safety devices as required in subdivision (1) of section 240; and (3) owner's failure was a proximate cause of his injuries (see NYSCEF Doc. No. 27, carpenter's memorandum of law in support of his motion for summary judgment).

In support of the motion for summary judgment, carpenter submits, among other things, his deposition transcript (see NYSCEF Doc. No. 18); the deposition transcript of carpenter's co-worker, Juan De La Cruz (see NYSCEF Doc. No. 16); the deposition transcript of carpenter's foreperson, Andreas Stefanakis (see NYSCEF Doc. No. 17); and photographs of the worksite, including the scaffolding and carpenter on the date of the incident (see NYSCEF Doc. No. 25-26).

Owner opposes carpenter's motion, arguing that triable issues of fact exist. Specifically, owner contends that the conflicting versions of the accident, among other things, raise the questions (1) if carpenter was engaged in a protected activity under Labor Law § 240 (1) at the time of the incident and (2) if carpenter's own conduct was the sole proximate cause

of his fall.

In support of its opposition, owner submits the same photographs carpenter relies on in support of his motion for summary judgment (see NYSCEF Doc. Nos. 39-40); the on-site incident report (see NYSCEF Doc. No. 40); the affirmation of non-party Frank Ruiz, shop steward for non-party contractor (see NYSCEF Doc. No. 35); and the affirmation of non-party John T. Whitty, a licensed civil engineer (see NYSCEF Doc. No. 33).

ANALYSIS

Summary judgment is an extraordinary remedy appropriate only where the movant has established that no question of fact exists on any issue which would require a trial (see Andre v Pomeroy, 35 NY2d 361, 364 [1974]; see also Bronx-Lebanon Hosp. Ctr. v Mount Eden Ctr., 161 AD2d 480 [1st Dept 1990] [holding that "summary judgment is a drastic remedy, the procedural equivalent of a trial [] it should not be granted where there is any doubt about the issue"])). The court may grant summary judgment upon a prima facie showing of entitlement to judgment as a matter of law, through admissible evidence sufficient to eliminate material issues of fact (CPLR § 3212 [b]; Nomura Asset Capital Corp. v Cadwalader, Wickersham & Taft LLP, 26 NY3d 40,

49 [2015]; Alvarez v Prospect Hosp., 68 NY2d 320, 324 [1986]; Winegrad v New York Univ. Med. Ctr., 64 NY2d 851 [1985]).

It is black letter law that such proof shall include the "affidavit" of a person that has personal knowledge of the facts, "a copy of the pleadings" and "other available proof, such as depositions and written admissions" (CPLR § 3212 [b]).

The court must view the facts in the light most favorable to the non-movant, giving [non-movant] the benefit of all reasonable inferences (see De Lourdes Torres v Jones, 26 NY3d 742, 763 [2016] [emphasis added]). If the moving party makes the requisite showing, the burden shifts to the non-moving party "to establish the existence of [factual issues] which require a trial of the action" (id., citing Vega v Restani Constr. Corp., 18 NY3d 499, 503 [2012], quoting Alvarez, 68 NY2d at 324).

"Summary judgment is inappropriate in any case where there are material issues of fact in dispute or where more than one conclusion may be drawn from the established facts" (Friends of Thayer Lake LLC v Brown, 27 NY3d 1039, 1043 [2016], citing Kriz v Schum, 75 NY2d 25, 33-34 [1989]). "A motion for summary judgment should not be granted where the facts are in dispute, where conflicting inferences may be drawn from the evidence, or where there are issues of credibility" (Ruiz v Griffin, 71 AD3d 1112, 1115 [2d Dept 2010]; see also Brown v Lafontaine-Rish Med. Assoc., 295 AD2d 167, 168 [1st Dept 2002] ["conflicting evidence

raises material and triable issues of fact and thus precludes an award of summary judgment”)).

Here, there appears to be no dispute that carpenter and the work he was performing at the time of his fall are within the scope of Labor Law § 240 (1).² The statute applies to those “‘employed’ in the ‘erection, demolition, repairing, altering, painting, cleaning or pointing of a building or structure’” (Stoneham v Joseph Barsuk, Inc., 41 NY3d 217, 220 [2023] [emphasis added], quoting Dahar v Holland Ladder & Mfg. Co., 18 NY3d 521, 524-525 [2012])). “If [as here] an employee is engaged in an activity covered by section 240 (1), ‘contractors and owners’ must ‘furnish or erect’ enumerated safety devices ‘to give proper protection’ to the employee” (id., 41 NY3d at 220-221, quoting Labor Law § 240 [1]).

Section 240 (1) of the Labor Law “creates a liability that is strict, or absolute, in two senses: [1] the duty it imposes is nondelegable, and thus contractors and owners are liable under the statute whether or not they supervise or control the work; and [2] where an accident is caused by a violation of the statute, the plaintiff's own negligence does not furnish a

² Labor Law § 240 (1) provides, in pertinent part: “All contractors and owners and their agents, except owners of one and two-family dwellings who contract for but do not direct or control the work, in . . . repairing . . . a building or structure shall furnish or erect, or cause to be furnished or erected for the performance of such labor, scaffolding . . . which shall be so constructed, placed and operated as to give proper protection to a person so employed.”

defense" (Cahill v. Triborough Bridge & Tunnel Auth., 4 NY3d 35, 39 [2004]).

However, an owner or contractor "has no liability under Labor Law § 240 (1) when plaintiffs: (1) 'had adequate safety devices available,' (2) 'knew both that' the safety devices 'were available and that [they were] expected to use them,' (3) 'chose for no good reason not to do so,' and (4) would not have been injured had they 'not made that choice'" (Biaca-Neto v Boston Rd. II Hous. Dev. Fund Corp., 34 NY3d 1166, 1167-1168 [2020], quoting Cahill, supra, 4 NY3d at 40).

Here, carpenter has not established a prima facie case that the scaffolding owner provided him was inadequate, or not "constructed, placed and operated as to give proper protection" to carpenter while he worked to repair the ceiling (Labor Law § 240 [1]).³ Further, an issue of fact exists whether the "failure [if any] to provide an appropriate safety device proximately caused [carpenter's] injury" (Gonzalez v DOLP 205 Props. II, LLC, 206 AD3d 468, 469 [1st Dept 2022]; Torres v

³ Notably, Labor Law § 240 (2) provides: "Scaffolding or staging more than twenty feet from the ground or floor, swung or suspended from an overhead support or erected with stationary supports, except scaffolding wholly within the interior of a building and covering the entire floor space of any room therein, shall have a safety rail of suitable material properly attached, bolted, braced or otherwise secured, rising at least thirty-four inches above the floor or main portions of such scaffolding or staging and extending along the entire length of the outside and the ends thereof, with only such openings as may be necessary for the delivery of materials. Such scaffolding or staging shall be so fastened as to prevent it from swaying from the building or structure" (emphasis added).

Accumanager, LLC, 210 AD3d 718, 723 [2d Dept 2022] [holding that “while the collapse of a scaffold for no apparent reason while a plaintiff is engaged in an activity enumerated under the statute creates a presumption that the scaffold did not afford proper protection, there is a triable issue of fact as to whether plaintiff fell when a scaffold plank unexpectedly collapsed, as he testified, or whether the accident occurred while plaintiff was on a ladder, as the representatives of [defendant] testified”)].

The pleadings present two differing versions of carpenter’s accident -- one involving carpenter falling from the scaffolding and another involving carpenter being observed standing on a cabinet covered in a plastic tarp about a minute before his fall. The record also includes competing facts that the scaffold tipped, and that such tipping was an engineering impossibility (see NYSEF Doc. No. 33, affirmation of John T. Whitty, a licensed civil engineer).

“[W]here the facts are in dispute, where conflicting inferences may be drawn from the evidence, or where there are issues of credibility” summary judgment is inappropriate (Ruiz v Griffin, 71 AD3d 1112, 1115 [2d Dept 2010]; see also Brown v Lafontaine-Rish Med. Assoc., 295 AD2d 167, 168 [1st Dept 2002] [“conflicting evidence raises material and triable issues of fact and thus precludes an award of summary judgment”]; Ansah v

A.W.I. Sec. & Investigation, Inc., 129 AD3d 538, 539 [1st Dept 2015] [holding that conflicting evidence precludes summary judgment]).

Carpenter's argument that co-worker's deposition testimony is insufficient to raise an issue of fact is unpersuasive (see NYSCEF Doc. No. 42, carpenter's reply affirmation). "When the [carpenter] is the sole witness to the accident, summary judgment is only appropriate if the defendant has presented no evidence of a triable issue of fact relating to [carpenter's] credibility or materially different versions of how the accident occurred" (Nieves v Five Boro Air Conditioning & Refrigeration Corp., 256 AD2d 106, 109 [1st Dept 1998] [emphasis added], citing Klein v City of New York, 89 NY2d 833, 835 [1996]). Conversely, if defendant proffers some evidence contradicting carpenter's version of events, an award of summary judgment is inappropriate (see Hernandez v 46-24 28th Street, LLC, 214 AD3d 451 [1st Dept 2023], citing Manna v New York City Housing Auth., 215 AD2d 335, 336 [1st Dept 1995]).

Accordingly, it is hereby

ORDERED that the motion (seq. no. 01) of plaintiff IOANNIS FILIS is denied entirely; it is further

ORDERED that plaintiff shall serve this order with notice of entry on defendant within 15 days of entry of this order; and it is further

ORDERED that the Clerk of the Court shall mark the file accordingly.

THIS CONSTITUTES THE DECISION AND ORDER OF THE COURT.

4/20/2026
DATE

Emily Morales-Minerva
EMILY MORALES-MINERVA, J.S.C.

CHECK ONE:

<input type="checkbox"/>	CASE DISPOSED		
<input type="checkbox"/>	GRANTED	<input checked="" type="checkbox"/>	DENIED
<input type="checkbox"/>	SETTLE ORDER		
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<input type="checkbox"/>	GRANTED IN PART	<input type="checkbox"/>	OTHER
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<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input type="checkbox"/>	REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: