Remache v Aldad & Sons Realty, Inc.
2026 NY Slip Op 31866(U)
April 30, 2026
Supreme Court, New York County
Docket Number: Index No. 159315/2019
Judge: Sabrina Kraus

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: **HON. SABRINA KRAUS** **PART** **57M**

Justice

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EDISON ADRIAN CHABLA REMACHE,

Plaintiff,

- v -

ALDAD & SONS REALTY, INC., PUEBLO NUEVO MEAT CORP D/B/A CHERRY VALLEY, A&A BUILDING CONSULTANTS INC.,

Defendants.

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INDEX NO. 159315/2019

MOTION DATE 03/12/2026

MOTION SEQ. NO. 008

DECISION + ORDER ON MOTION

PUEBLO NUEVO MEAT CORP D/B/A CHERRY VALLEY, ALDAD & SONS REALTY, INC.

Plaintiffs,

-against-

MONOLOS CONSTRUCTION INC.

Defendant.

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Third-Party
Index No. 595143/2023

The following e-filed documents, listed by NYSCEF document number (Motion 008) 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 181

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

BACKGROUND

Plaintiff commenced this Labor Law action seeking damages for personal injuries arising out of an August 7, 2019, workplace accident.

FACTS

Aldad & Sons Realty, Inc. ("Aldad") owned the property known as the "Cherry Valley Center" in West Hempstead, New York (NYSCEF Doc No. 162). Pueblo Nuevo Meat Corp. ("Pueblo") leased commercial space there from Aldad to operate a supermarket (NYSCEF Doc

No. 173, at 10–11). Sometime prior to August 2019, Pueblo hired Monolos Construction Inc. ("Monolos") to perform construction and renovation work on the property.

The following information derives from Plaintiff's testimony (NYSCEF Doc No. 171).

Plaintiff was employed by Monolos to perform Sheetrocking and plastering in connection with an interior renovation of the supermarket. Plaintiff, using his own plate and spatula, would install the sheetrock and then plaster the wall.

Plaintiff was walking on a wooden scaffold in the grocery store around 2:00 a.m. The area in which Plaintiff was working was dark because the lights had been turned off in that part of the store (*id.* at 29–30). Neither Plaintiff nor his coworkers were provided with a hard hat (*id.* at 27). As Plaintiff was walking along the scaffold, he struck his forehead on a black metal pipe. Plaintiff spit a lot of blood from his mouth and had a red scratch on his forehead.

Plaintiff testified that had he been given a hard hat he would not have hurt his head. Plaintiff continued to work two more nights after the accident until he felt more and more pain in his head. The pain then became so intense Plaintiff sought treatment at Elmhurst Hospital. Due to extensive blood where Plaintiff struck his head, he needed surgery.

PENDING MOTION

On April 24, 2026, Plaintiff moved for partial summary judgment as to liability against Aldad and Puebla on his Labor Law § 241(6) claim (NYSCEF Doc No. 157 [mot. seq. 007]).

The motion was marked submitted on April 24, 2026, and the Court reserved decision.

For the reasons set forth below, the motion is granted.

DISCUSSION

Summary judgment is a drastic remedy reserved for cases where no material and triable issue of fact is presented (*Sillman v Twentieth Century-Fox Film Corp.*, 3 NY2d 395, 404

[1957]). To prevail on summary judgment, the movant must establish *prima facie* entitlement to judgment as a matter of law, tendering evidence in admissible form demonstrating the absence of any triable issues of fact (CPLR § 3212(b); *Matter of New York City Asbestos Litig.*, 33 NY3d 20, 25–26 [2019]).

When a movant meets this burden, summary judgment will be denied only when the nonmovant provides evidence in admissible form demonstrating the existence of triable issues of fact (*Alvarez v Prospect Hosp.*, 68 NY2d 320, 324 [1986]). However, "[m]ere conclusions, expressions of hope, or unsubstantiated allegations or assertions are insufficient" to defeat summary judgment (*Justinian Capital SPC v WestLB AG*, 28 NY3d 160, 168 [2016] [alteration in original]). Courts view the evidence in a light most favorable to the nonmovant, according the nonmovant with "the benefit of every reasonable inference" (*Negri v Stop & Shop, Inc.*, 65 NY2d 625, 626 [1985]).

The Failure to Provide Plaintiff with a Hard Hat was a Statutory Violation and the Proximate Cause of his Injury

Labor Law § 241(6) provides:

> All areas in which construction . . . work is being performed shall be so constructed, shored, equipped, guarded, arranged, operated and conducted as to provide reasonable and adequate protection and safety to the persons employed therein or lawfully frequenting such places. The commissioner may make rules to carry into effect the provisions of this subdivision, and the owners and contractors and their agents for such work . . . shall comply therewith.

Section 241(6) imposes a nondelegable duty on owners, general contractors and their statutory agents "to provide reasonable and adequate protection and safety for workers" and "to comply with the specific safety rules and regulations promulgated by the Commissioner of the Department of Labor" (*Misicki v Caradonna*, 12 NY3d 511, 515 [2009]). A commercial tenant, such as Puebla, may be held liable as an owner under the Labor Law (*see Gonzalez v 1225 Ogden Deli Grocery Corp.*, 158 AD3d 582, 583 [1st Dept 2018]). The Commissioner's safety

regulations are set out in Title 12, part 23 of the New York Codes, Rules and Regulations (12 NYCRR § 23-1.1 [the "Industrial Code"]).

To prevail on a section 241(6) claim, a plaintiff must establish a violation of an Industrial Code regulation that places a "specific, positive command" to ensure safe working conditions (*Rizzuto v LA Wenger Contr. Co.*, 91 NY2d 343, 349 [1998]), and that the violation proximately caused the injury (*Romano v New York City Tr. Auth.*, 213 AD3d 506, 507–08 [1st Dept 2023]; *see also Ares v State*, 80 NY2d 959, 959 [1992]).

Plaintiff asserts a violation of Industrial Code § 23-1.8(c)(1), which provides:

> Head protection. Every person required to work or pass within any area where there is a danger of being struck by falling objects or materials or *where the hazard of head bumping exists* shall be provided with and shall be required to wear an approved safety hat. (*emphasis added*).

This regulation is sufficiently specific as the basis for liability under section 241(6) (*Rutkowsky v New York Convention Ctr. Dev. Corp.*, 146 AD3d 686, 687 [1st Dept 2017]). Plaintiff also establishes *prima facie* a violation of this regulation because he was not provided with a hard hat and he was working in an area where the hazard of head bumping existed.

In opposition, Defendants rely on the testimony of Manuel Chabla, Monolos' representative, who testified that Monolos' workers were provided with hard hats but that they would remove them because they were "very heavy . . . so sometimes [the workers] don't want to use it" (NYSCEF Doc No. 174, at 26, 28). Chabla testified that Plaintiff knew that he should have been wearing a hard hat (*id.* at 25), Chabla was not present at the worksite at the time of Plaintiff's accident (*id.* at 22), but when he left the worksite that day, he thought he saw Plaintiff with a hard hat on but, "I don't remember exactly" (*id.* at 27). Chabla spoke with other workers who witnessed Plaintiff's accident, but he did not know any of their names (*id.* at 24).

While Chabla's testimony that workers generally were provided with hard hats, contradicted Plaintiff's testimony that Chabla never provided his workers with hard hats, Chabla's testimony is insufficient to raise a triable issue of fact as to whether Plaintiff was provided with a hard hat at the time of the accident (*see Foy v Hurley*, 19 AD3d 138, 138 [1st Dept 2005] [*testimony which evinced a lack knowledge of the accident insufficient to raise an issue of fact*]; *Santarpia v First Fid. Leasing Group, Inc.*, 275 AD2d 315, 315 [2d Dept 2000] [*testimony as to the lack of memory of the details of an accident insufficient to raise a triable issue of fact*]).

In fact Chabla's testimony that it was common knowledge that generally workers didn't wear hard hats they were provided with lends strength to Plaintiff's case, the Code requires not only that head protection "be provided" but also that it is "required" to be worn by the worker (12 NYCRR §23-1.8[c][1]). (Industrial Code § 23-1.8(c)(1)) such hard hats (*see Melendez v Brown-United, Inc.*, 209 AD3d 437, 438 [1st Dept 2022] [*defendant not entitled to summary dismissal of section 241(6) claim when plaintiff misplaced hard hat and was injured while not wearing it*]); *Sheley v. Kingsfort Builders, Inc.*, 207 A.D.3d 1155, 1156 (4th Dept, 2022)(*defendant required both to provide safety equipment and ensure the use of same*).

Defendant argues only that Plaintiff's own moving papers raised triable issues of fact, and declined to address or contest that the violation was a proximate cause of Plaintiff's injuries.

CONCLUSION

WHEREFORE, it is hereby:

ORDERED that the Plaintiff's motion for partial summary judgment (mot. seq. 008) as to liability is granted in its entirety; and it is further

ORDERED that, within twenty (20) days from entry of this order, Plaintiff shall serve a copy of this order with notice of entry on the Clerk of the General Clerk's Office (60 Centre Street, Room 119, New York, NY 10007); and it is further

ORDERED that such service upon the Clerk shall be made in accordance with the procedures set forth in the *Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases* (accessible at the "E-Filing" page on the court's website at the address www.nycourts.gov/supctmanh).

This constitutes the decision and order of this Court.

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4/30/2026
DATE

SABRINA KRAUS, J.S.C.

CHECK ONE:		**CASE DISPOSED**		[X]	**NON-FINAL DISPOSITION**		
	[X]	**GRANTED**	[ ] **DENIED**	[ ]	**GRANTED IN PART**	[ ]	**OTHER**
APPLICATION:	[ ]	**SETTLE ORDER**		[ ]	**SUBMIT ORDER**		
CHECK IF APPROPRIATE:	[ ]	**INCLUDES TRANSFER/REASSIGN**		[ ]	**FIDUCIARY APPOINTMENT**	[ ]	**REFERENCE**