

<b>Nazario v 222 Broadway, LLC</b>
2016 NY Slip Op 07823
Decided on November 21, 2016
Court of Appeals
Published by <a href="#">New York State Law Reporting Bureau</a> pursuant to Judiciary Law § 431.
This opinion is uncorrected and subject to revision before publication in the Official Reports.

Decided on November 21, 2016

No. 225 SSM 29

**[\*1]Justin Nazario, Respondent,**

**v**

**222 Broadway, LLC, et al., Respondents.**

---

**222 Broadway, LLC, et al., Third-Party Respondents, v.**

**v**

**Knight Electrical Services Corp., Third-Party Appellant. (And Other Third-Party Actions.)**

Submitted by Amy L. Fenno, for third-party appellant.

Submitted by D. Carl Lustig, III, for respondent Nazario.

Submitted by Leslie McHugh, for third-party respondents 222 Broadway, LLC et al.

MEMORANDUM:

The order of the Appellate Division, insofar as appealed from, should be modified, without costs, by denying plaintiff's motion for partial summary judgment on the issue of liability on his Labor Law § 240 (1) claim and remitting the case to the Appellate Division for consideration of the issues raised but not determined on the appeal to that court, and, as so [\*2]modified, affirmed, and the certified question should be answered in the negative.

Plaintiff is not entitled to summary judgment under Labor Law § 240 (1). While using an A-frame ladder, plaintiff fell after receiving an electrical shock. Questions of fact exist as to whether the ladder failed to provide proper protection, and whether plaintiff should have been provided with additional safety devices (*see Blake v Neighborhood Hous. Servs. of N.Y. City*, 1 NY3d 280, 287 [2003]; *Barreto v Metropolitan Transp. Auth.*, 25 NY3d 426 [2015], *rearg denied* 25 NY3d 1211 [2015]). Defendants Lime Energy Co. and Jones Lang LaSalle Americas, Inc. were properly granted summary judgment on their contractual indemnification claims against Knight Electrical Services Corp.

\*\*\*\*\*

On review of submissions pursuant to section 500.11 of the Rules, order, insofar as appealed from, modified, without costs, by denying plaintiff's motion for partial summary judgment on the issue of liability on his Labor Law § 240(1) claim and remitting the case to the Appellate Division, First Department, for consideration of issues raised but not determined on the appeal to that court, and, as so modified, affirmed, and certified question answered in the negative, in a memorandum. Chief Judge DiFiore and Judges Pigott, Rivera, Abdus-Salaam, Stein, Fahey and Garcia concur.

Decided November 21, 2016

Return to Decision List