Are not all falls from heights the same? Has Labor Law

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Â§ 240 reached its limits?Labor Law Â§ 240.

Plaintiff lawyers, and to a lesser extent insurance defense lawyers in New York are grateful every day for its existence. The construction industry and insurance companies, on the other hand, see it as exposure to frivolous lawsuits, and the cost of doing business, at best. At worst, they see it as a means by which they can lose everything they have spent years building.

Recently, a case was decided by the Court of Appeals, and in a victory for, not only the insurance and construction industries, but business owners in general, the court refused to expand the parameters of Labor Law Â§ 240 (1).

In Dahar v Holland Ladder & Manufacturing Company, 18 NY3d 521 (2012), the plaintiff, Michael Dahar was injured while cleaning a product manufactured by his employer while standing on a ladder provided by his employer, during the normal course of his employment. The product which he was cleaning was described as steel wall module, made by his employer, a third party defendant. According to the plaintiff, the ladder broke while he was standing on it and he fell to the ground. The plaintiff sued multiple parties, including the manufacturer of the ladder, and his employer's landlord, on multiple theories of liability, including Labor Law Â§ 240 (1). The Supreme Court and the Appellate Division dismissed the Labor Law

Â§ 240 (1) claim and the Court of Appeals affirmed the decision.

Labor Law Â§ 240 (1) affords rights to workers engaged in certain activities, among the protected activities is "cleaning" a "structure." It imposes strict liability upon owners and contractors who had seemingly nothing to do with a plaintiff's activities and makes irrelevant any fault of the plaintiff. In other words, if the activity in which the plaintiff was engaged falls under the parameters of Labor Law Â§ 240 (1) the plaintiff is victorious and many defendants, even those with seemingly nothing to do with the plaintiff's activities, are deemed to be at fault.

The plaintiff's basic argument was that since he was "cleaning" a "structure" he was entitled to the benefits of Labor Law Â§ 240 (1). The court, however, refused to extend the reach of Labor Law Â§ 240 (1) to this case, differentiating this case on two main points. First, after reviewing the legislative history of Labor Law Â§ 240 (1), specifically how it was enacted with the construction industry in mind, and the case law surrounding Labor Law Â§ 240 (1), the court determined that in this instance Labor Law Â§ 240 (1) did not apply. The court noted that the overwhelming majority of "cleaning" cases involves window washers cleaning the windows of a building. Secondly, the court refused to extend Labor Law Â§ 240 (1) to the manufacturing industry. It stated that Labor Law Â§ 240 (1) simply does not apply to workers engaged in the manufacturing industry. The court was not willing to "extend the statute so far beyond the purposes it was designed to serve."

Essentially, the court refused to extend the scope of Labor Law Â§ 240 (1) to the manufacturing process determining that it does not apply to the workers in the manufacturing industry.

While this decision does not do anything for the construction industry, it is a victory for the insurance and manufacturing industries and employers, landlords etc. in general.

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