

State: NY

Ladder Was an Inadequate Safety Device, Appeals Court Rules: EAST [2013-01-21]

An injured worker was entitled to summary judgment after proving that the faulty ladder that caused his injury was not an adequate safety device, a New York appeals court ruled.

Case: Cuentas v. Sephora USA, No. 8379, 1/17/13, published.

Facts: Hector Cuentas was injured when he fell from a ladder while trying to clean a window. He testified that the ladder was unsteady and was not tall enough to reach the window.

Cuentas sued Sephora USA, under Labor Law 240(1), which gives owners and general contractors a nondelegable duty to provide safety devices necessary to protect workers from elevation-related risks.

Procedural History: The trial court granted Cuentas' motion for summary judgment on the issue of liability, and Sephora appealed.

Analysis: At the 1st Appellate Department of the New York Supreme Court, Sephora argued that Cuentas was negligent because he was on top of a ladder.

The appellate court explained that negligence was irrelevant, because Cuentas' testimony established that the defendants failed to provide him with an adequate safety device. The court cited language from the case of *Schultze v. 585 W. 214th St. Owners Corp.*, which stated that "It is well settled that failure to properly secure a ladder to insure that it remains steady while being used constitutes a violation of Labor Law 240(1)."

The court concluded that because Cuentas established that the employer failed to provide him with an adequate safety device, his negligence could not be "deemed to be the sole proximate cause" of the injury.

Disposition: Affirmed.

To read the decision, [click here](#).

Source: WorkCompCentral