



Summary Judgment Victory Involving Routine Maintenance Exception to NY Labor Law

March 9, 2020

Cullen and Dykman's Construction Litigation Group is pleased to report a significant victory involving the routine maintenance exception to the New York Labor Law. The Group won its early Summary Judgment motion despite determined opposition from the Plaintiff and Co-Defendants. The Plaintiff, an employee of the building maintenance company, was allegedly injured when he fell from a ladder while performing a drain down of a water system to facilitate work on an HVAC system.

Upon receiving this assignment, we filed an early Summary Judgment motion to dismiss all claims. We took the position that Plaintiff was not protected under the Labor Law, as he was performing routine maintenance and was not involved in any construction activity when the alleged incident occurred. In the case *Peterman v Ampal Realty Corp.*, 288 A.D.2d 54, 54-55 (1st Dep't 2001), which the Court held was "directly on point," the Appellate Division held the Labor Law did not protect a worker who, just like our Plaintiff, was employed by building management, did not perform any construction, and fell from a ladder when closing a valve to facilitate construction work elsewhere in the building.

After conducting some initial depositions to cement the facts, we immediately moved for Summary Judgment on the precedent set by *Peterman* and established that our client had nothing to do with the plaintiff's work. Despite the late addition of Co-Defendants to the case, all of who filed opposition to our motion, we nonetheless secured Summary Judgment dismissing all of plaintiff's Labor Law and common law negligence claims.

Cullen and Dykman's Construction Litigation Group consists of 38+ full-time attorneys, each of whom are independently trained in construction and safety practices. They each possess a complete working knowledge of the fundamentals of construction law and litigation. Our firm and the Construction Litigation Group strive to remain current with respect to new developments in the law, such as cases impacting the liability of architects and construction managers. For more information on the decision or the Construction Litigation Group, please click [here](#).

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