

Tuesday, March 23, 2010

Court Decisions  
Kings  
Labor Law

**'FALLING OBJECT' LIABILITY EXTENDED TO OBJECTS THAT REQUIRE  
SECURING; JUDGMENT ON §240(1) GRANTED**

PLAINTIFF worker sought damages for personal injuries allegedly sustained while he was bending to remove debris from a lift, and a cinder block fell from above, striking his back. He moved for summary judgment on liability as to his [Labor Law §240\(1\)](#) claim. The block was either dropped by a co-worker or tipped over from a stack as a co-worker was moving them for installation. Defendant moved for summary dismissal of the complaint, arguing [§240\(1\)](#) only protected workers against objects that fall while being hoisted or secured because of the inadequacy of a safety device enumerated in [§240\(1\)](#). The court noted 'falling object' liability was not limited to objects in the process of being hoisted or secured, but extended to objects that require securing. Thus, regardless of the precise manner in which the accident occurred, defendant was not absolved from liability where a plaintiff's injuries were at least partially attributable to defendant's failure to provide protection as mandated by statute. The court stated plaintiff established the absence of a safety device to secure the blocks after they were unloaded from the lift, and the inadequacy of the safety device with which he was provided in preventing his injury. Plaintiff's motion was granted.

Maximin v. 26-26 Jackson Avenue LLC, 32490/07 (March 5), Supreme Court, Justice Battaglia.

3/23/2010 NYLJ 25, (col. 1)