

New York Construction Accident Lawyer Expands New York's Labor Law

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In *Kempisty v 246 Spring Street*, the Appellate Division of the Supreme Court of New York, First Department has held the motion court erred in finding that Labor Law § 240(1) did not apply to a worker's injury caused by application of gravity. *Kempisty v 246 Spring Street*, No. 107465/07, 2012 NY Slip Op 00901, February 9, 2012

Kempisty, a construction worker, suffered a serious injury to his foot when a steel block improperly swung while it was being hoisted. The steel block did not fall or drop on the worker. The block and the worker were at the same level and the block had traveled a short distance.

The motion court held that New York Labor Law § 240(1) did not apply because the elevation differential between the worker and the object was not significant enough. The evidence showed that the block and the worker were at the same level and the block only traveled a short distance before striking Kempisty.

The Appellate Court contended that the elevation differential cannot be considered de minimis since the weight of the object being hoisted is capable of generating an extreme amount of force, even though it only traveled a short distance (see *Runner v New York Stock Exch., Inc.*, 13 NY3d 599 [2009]; see also *Wilinski v 334 E. 92nd Hous. Dev. Fund Corp.*, 18 NY3d 1 [2011]). The Appellate Court found in favor of Kempisty, thereby further defining and perhaps even expanding the scope of New York Labor Law § 240(1) to include accidents caused by application of the force of gravity.

David Perecman, of The Perecman Firm, represented the construction worker. If you suffered an injury in a construction accident, contact the experienced [New York construction accident lawyers](#) at The Perecman Firm at <http://www.perecman.com>