

What New York's Scaffold Law Really Means for an Injured Construction Worker

The Scaffold Law Can Eliminate Comparative Fault, but Liability Is Not Automatic

After a fall on a [New York construction site](#), the property owner's insurance carrier may focus immediately on what the worker did wrong. Maybe it claims you leaned too far from a ladder, stepped where you shouldn't have, or failed to follow an instruction. In an ordinary negligence case, those accusations can reduce a recovery.

A qualifying claim under [New York Labor Law 240](#), commonly called the Scaffold Law, works differently. Once a worker proves a statutory violation and that the violation was a proximate cause of the injury, comparative negligence generally doesn't reduce the owner's or contractor's liability. But the law doesn't create automatic liability every time someone falls from a height.

Our New York construction accident lawyers at [Pasternack Tilker Ziegler Walsh Stanton & Romano LLP](#) have represented injured workers for more than 90 years. In serious fall cases, one of the most important early questions isn't simply who caused the accident. It's whether the facts bring the accident within Labor Law 240 and remove comparative fault from the liability analysis.

Absolute Liability Under Labor Law 240 Has Specific Requirements

[Labor Law 240\(1\)](#) requires owners, contractors, and their agents to provide proper protective devices for workers engaged in specified work on buildings and structures. The statute lists devices such as scaffolds, ladders, hoists, slings, ropes, braces, and other equipment designed to protect workers from elevation-related hazards.

New York courts often describe liability under the statute as "absolute" or "strict." Those words are powerful, but they can be misunderstood. In [Blake v. Neighborhood Housing Services of New York City](#), the Court of Appeals made clear that an accident by itself doesn't establish liability. The worker still has to prove a violation of the statute and show that the violation contributed to the injury.

A practical way to analyze a potential Scaffold Law case is to ask four questions:

1. **Was the worker performing covered work?** Labor Law 240 applies to activities listed in the statute, including erection, demolition, repairing, altering, painting, cleaning, and pointing of a building or structure.
2. **Was there a qualifying elevation-related hazard?** The accident must involve the kind of gravity-related risk the statute was designed to address, not simply any hazard that happened to exist on a construction site.

3. **Was proper protection missing or inadequate?** A ladder, scaffold, hoist, safety line, or other protective device may have been absent, defective, unsecured, improperly placed, or otherwise inadequate for the work.
4. **Did that failure cause the injury?** The missing or inadequate protection must be a proximate cause of what happened. If the safety device provided proper protection and the worker alone caused the accident, Labor Law 240 may not impose liability.

When those requirements are satisfied, the worker's ordinary carelessness generally doesn't reduce the claim. That's the critical distinction between comparative negligence and the much narrower sole-proximate-cause defense.

Falls and Falling Objects Can Trigger the Scaffold Law in Different Ways

Labor Law 240 isn't limited to a worker standing on traditional scaffolding. The focus is whether the injury resulted from inadequate protection against a physically significant elevation differential.

- **Scaffold Falls**: A scaffold that collapses, shifts, lacks necessary protection, or otherwise fails to keep a worker safe can support a Labor Law 240 claim when the failure causes the fall.
- **Ladder Falls**: An unsecured, unstable, defective, or otherwise inadequate ladder can bring the statute into play when it fails to provide proper protection for covered work.
- **Falls Through Openings**: A fall through an unprotected floor opening, roof opening, shaft, or unfinished area may qualify when an appropriate safety device should have protected the worker from the elevation risk.
- **Falling Objects**: The statute can apply when an object that needed securing or a protective device falls because adequate protection wasn't provided.
- **Other Gravity-Related Hazards**: A worker doesn't always have to fall, and an object doesn't always have to strike the worker from above. The Court of Appeals has focused on whether the injury was the direct consequence of inadequate protection against a significant elevation differential.

That last point comes from cases such as [*Runner v. New York Stock Exchange, Inc.*](#), where the Court of Appeals rejected an overly narrow view of the statute. The right question is the gravity-related risk and the protection the work required, not simply whether the accident fits a familiar "worker fell from scaffold" pattern.

By contrast, a same-level slip on debris or a wet floor usually isn't a Labor Law 240 accident because the injury doesn't arise from an elevation differential. Other provisions of New York Labor Law or ordinary negligence principles may still apply.

Comparative Negligence and Sole Proximate Cause Are Not the Same Defense

This is the part of Labor Law 240 that most injured workers need to understand. A worker can make a mistake without losing a qualifying Scaffold Law claim. If an owner or contractor

violated the statute and that violation contributed to the accident, comparative negligence generally isn't a defense.

A defendant can still avoid liability if the worker's conduct was the **sole proximate cause** of the accident. Courts typically look for facts showing that an adequate safety device was available, the worker knew it was available and was expected to use it, the worker chose for no good reason not to use it, and that choice was the only cause of the injury.

A 2025 First Department decision shows how narrow that distinction can be. In [Vines v. Judlau Contracting, Inc.](#), a worker was struck by an unsecured brick dropped from a scaffold. The defense pointed to an instruction that the worker stay out of the hoist area, but the court held that an instruction to avoid an unsafe practice wasn't a substitute for providing the safety protection the work required. Any fault by the worker amounted, at most, to comparative negligence.

That difference matters after [falls from heights](#). "You should have been more careful" and "you were the only legal cause of the accident" are not the same argument under New York law.

Property Owners, Contractors, and Statutory Agents Can Face Liability

Labor Law 240 places its nondelegable duty on owners, contractors, and qualifying agents. An owner can potentially face liability even without supervising the worker's day-to-day tasks because the statute places responsibility for proper elevation protection on the parties in a position to ensure it is provided.

A general contractor can also be liable when the injured worker was employed by a subcontractor. A separate company may qualify as an "agent" when authority over the work has been delegated to it and it has the ability to supervise or control the activity that produced the injury.

There is an important homeowner exception. Owners of one- and two-family dwellings who contract for work but don't direct or control it are generally exempt under the statute. Whether the exception applies can depend on the property's use, the purpose of the project, and how much control the homeowner actually exercised.

Workers' Compensation and a Labor Law 240 Claim Can Move Together

An injured construction worker may have two separate sources of recovery after the same accident. [New York workers' compensation benefits](#) generally provide medical treatment and partial wage replacement regardless of fault.

At the same time, a [third-party workplace injury claim](#) may be available against an owner, general contractor, or another legally responsible party. The direct employer is usually protected from a personal injury lawsuit by workers' compensation exclusivity, but that protection doesn't automatically extend to other companies on the project.

That is why [workers' compensation and third-party construction claims](#) often proceed at the same time. One protects access to statutory work-injury benefits; the other can pursue damages workers' compensation doesn't provide.

A Third-Party Construction Claim Can Address Losses Workers' Comp Does Not

Workers' compensation is essential, but it doesn't compensate an injured worker for every consequence of a serious fall. A Labor Law 240 lawsuit or another viable third-party claim may allow recovery for additional losses supported by the evidence, including:

- **Pain and Suffering:** Compensation for the physical pain, limitations, and disruption caused by a serious construction injury.
- **Lost Earnings Beyond Workers' Comp:** Past and future wage loss or diminished earning capacity that isn't fully replaced by workers' compensation benefits.
- **Future Economic Losses:** Documented future treatment needs, rehabilitation, assistive care, and other financial consequences attributable to the injury.
- **Loss of Enjoyment and Other Non-Economic Harm:** Serious falls can affect mobility, independence, family life, sleep, and the activities a worker could perform before the accident.

The value of the civil case depends on the injuries, proof of future limitations, available insurance and assets, and the legal claims supported by the facts. Labor Law 240 can strengthen the liability side of a qualifying case, but damages still have to be documented carefully.

Strong Labor Law 240 Cases Still Depend on Early Evidence

Absolute liability doesn't make evidence optional. Owners and contractors may dispute how the fall happened, whether the work was covered, what safety devices were available, or whether the worker was the sole proximate cause.

Important evidence can include:

- **The Safety Device Itself:** A ladder, scaffold, harness, lanyard, hoist, or other equipment can change after the accident or disappear from the site.
- **Photographs and Video:** Images of the work area can document guardrails, tie-off points, openings, scaffold configuration, ladder placement, and site conditions before they change.
- **Witness and Incident Records:** Coworker names, daily logs, accident reports, toolbox-talk records, and site communications can establish what equipment was provided and what instructions were actually given.
- **Safety Rules and Inspection Records:** Applicable state and federal requirements, including [OSHA ladder-safety rules](#), can help show what protection should have been in place, although an OSHA violation and a Labor Law 240 violation are not the same legal question.

Construction sites change quickly. Equipment moves, subcontractors leave, temporary structures come down, and memories fade. Preserving the physical setup of the accident can be just as important as understanding the statute.

Our New York Construction Accident Lawyers Can Protect Both Claims

If you've been hurt in a scaffold fall, ladder fall, falling-object accident, or another elevation-related construction accident, don't assume that being partly blamed ends your right to recover. Labor Law 240 may remove comparative negligence from the case when its requirements are met, but the facts still need to be investigated and presented correctly.

Pasternack Tilker Ziegler Walsh Stanton & Romano LLP can protect your workers' compensation benefits while determining whether a separate Labor Law 240 or other third-party claim applies. We've represented injured New Yorkers for more than 90 years and know how to build construction cases involving multiple contractors, owners, insurers, and overlapping claims.

[Contact us](#) for a free case evaluation. We handle work-injury and third-party matters on a contingency basis, so you don't pay attorney's fees unless we obtain benefits or compensation for you.