

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

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CA 18-01682

PRESENT: CENTRA, J.P., PERADOTTO, CARNI, TROUTMAN, AND WINSLOW, JJ.

DONALD J. PHEARSDORF AND DANIELLE PHEARSDORF,
CLAIMANTS-RESPONDENTS,

V

MEMORANDUM AND ORDER

STATE OF NEW YORK, DEFENDANT-APPELLANT.
(CLAIM NO. 121775.)

RUPP BAASE PFALZGRAF CUNNINGHAM LLC, ROCHESTER (MATTHEW C. LENAHAN OF
COUNSEL), FOR DEFENDANT-APPELLANT.

BRIAN CHAPIN YORK, JAMESTOWN, FOR CLAIMANTS-RESPONDENTS.

Appeal from a judgment of the Court of Claims (Renee Forgens Minarik, J.), dated March 30, 2018. The interlocutory judgment determined that defendant is liable for the injuries sustained by claimant Donald J. Phearsdorf.

It is hereby ORDERED that the judgment so appealed from is unanimously affirmed without costs.

Memorandum: Defendant appeals from an interlocutory judgment, entered following a nonjury trial, in favor of claimants on the issue of liability under Labor Law § 240 (1). Viewing the evidence in the light most favorable to sustain the judgment and giving due deference to the determinations of the Court of Claims regarding witness credibility (*see generally Matter of City of Syracuse Indus. Dev. Agency [Alterm, Inc.]*, 20 AD3d 168, 170 [4th Dept 2005]), we conclude that, contrary to defendant's contention, there is a fair interpretation of the evidence supporting the court's determination that claimant Donald J. Phearsdorf was not furnished with the requisite safety devices and that the absence of adequate safety devices was a proximate cause of his injuries (*see generally Floyd v New York State Thruway Auth.*, 125 AD3d 1456, 1458 [4th Dept 2015]). We have reviewed defendant's remaining contentions and conclude that none warrants reversal or modification of the judgment.

Entered: September 27, 2019

Mark W. Bennett
Clerk of the Court