

TRAIN YARD INJURY CASE

The incident occurred on April 22, 2020, at 10:30 am, at the 207th Street Train Yard, 8th Avenue Line. Plaintiff was assigned to construct wooden forms for a concrete pad using 3-inch by 10-inch by 16-foot lumber that had recently arrived.

He testified that the 3x10x16 lumber was stacked in close proximity to another stack of 2x4 lumber, with only a 2-foot space between them. He had to navigate a cluttered work yard filled with concrete, plastic jersey barricades, a fence, and metal storage cages containing oxygen tanks. The 3x10 lumber was resting on thin 1.5-inch high dunnage, and photos indicated improperly stacked 2x4s at precarious angles without blocking to prevent falling.

A piledriver operating on a barge 60 to 80 feet away caused vibrations that affected the top row of 3x10s, leading them to vibrate off the stack and strike the Plaintiff right leg and knee, pinning him against the nearby 2x4 lumber. He was unable to find assistance, freed himself by individually lifting each piece of lumber.

I presented my expert opinion that the Defendants violated New York State Labor Laws § 200, 240(1), and 241(6) by failing to provide a safe worksite. Additionally, several sections of the New York State Industrial Code (12NYCRR23) were violated:

- **§ 23-1.2(e) (Hazards of Handling Heavy Material):** The change from lighter 2x4 lumber to much heavier 3x10x16 lumber (6.6 lbs per linear foot) was not included in the Task Hazard Analysis or discussed in safety meetings. This failure to prevent hazards associated with heavy material handling supports the Labor Law § 200 violation.
- **§ 23-1.7 (Passageways and Working Areas):** The worksite was cluttered with materials, barricades, and storage cages, leaving Plaintiff with no escape route when the lumber fell. This failure to provide safe, unobstructed passageways supports the Labor Law § 200 violation.
- **§ 23-2.1 (Maintenance and Housekeeping):** Building materials were not stored in a safe and orderly manner, and material piles obstructed passageways. The stacked 3x10s and 2x4s were too close, trapping Plaintiff. Proper housekeeping and clear passageways could have prevented the accident. This violation supports Labor Laws § 200 and § 241(6).
- **§ 23-1.5(a) (Health and Safety Protection Required):** Despite monitoring vibrations from the piledriver, the Defendants failed to provide adequate

protection for workers. They did not use safety devices like proper 4x4 dunnage or lumber brackets to secure materials from falling due to vibrations after the bands were cut. This failure supports a Labor Law § 240(1) violation, as The Plaintiff was struck by an unsecured falling object due to gravity-related risks that should have been addressed.

Conclusion:

I concluded, with a reasonable degree of professional safety certainty, that Plaintiffs injuries were caused by the Defendants' negligence and non-compliance with New York State Labor Laws § 200, 240(1), and 241(6), as well as Industrial Code Rules § 23-1.2(e), § 23-1.7 (1)(2), § 23-2.1, and § 23-1.5(a).