

2006 WL 2861493 (N.Y.Sup.) (Verdict and Settlement Summary)

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Supreme Court, Eleventh Judicial District, Queens County, New York

Pantelis Zoumis Joanne Zoumis v. C & K Properties Inc Media Partership Inc,
Sunrise Contracting Corp, 330 West 38th St., LLC, Pier 40 Operating LLC, Hi-
Tech Contracting, Inc, Malibu Properties, Inc. and Brookhaven Agency, Inc.

No. 12559/01

DATE OF VERDICT/SETTLEMENT: September 07, 2006

TOPIC: CONSTRUCTION - LABOR LAW - CONSTRUCTION - ACCIDENTS - CONSTRUCTION -
SCAFFOLDS AND LADDERS - SLIPS, TRIPS & FALLS - FALL FROM HEIGHT

Scaffold Not Properly Equipped With Guardrail, Worker Claimed

SUMMARY:

RESULT: Settlement

Award Total: \$170,000

During the trial's second day, the parties agreed to a \$170,000 settlement.

EXPERT WITNESSES:

Plaintiff: [Christopher Kyriakides](#), D.O.; Orthopedics; Astoria, NY [Harlan W. Fair](#), P.E.; Engineering; Armonk, NY
[Robert C. Brower](#); Vocational Rehabilitation; Medford, NY

Defendant: Dr. [Rosalind R. Zuger](#); Vocational Rehabilitation; New York, NY [John P. Coniglio](#); Workplace Safety;
Orchard Park, NY [Joyce Mesch-Spinello](#), Ph.D; Vocational Rehabilitation; New York, NY [Michael R. Miller](#);
Orthopedic Surgery; Port Chester, NY

ATTORNEYS:

Plaintiff: [Arthur O. Tisi](#); Rosenberg, Minc, Falkoff & Wolff, LLP; New York, NY (Joanne Zoumis, Pantelis Zoumis)
Defendant: None reported (330 West 38th St., LLC, Brookhaven Agency Inc., C & K Properties Inc., Hi-Tech
Contracting Inc., Malibu Properties Inc., Media Partership Inc., Pier 40 Operating LLC); [Andrew F. Pisanelli](#); Milber,
Makris, Plousadis & Seiden, LLP; White Plains, NY (Sunrise Contracting Corp.)

JUDGE: [Timothy J. Flaherty](#)

RANGE AMOUNT: \$100,000-199,999

STATE: New York

COUNTY: Queens County

INJURIES: The trial was bifurcated, so damages were not before the court.

Facts:

On April 17, 2000, plaintiff Pantelis Zoumis, 51, a plasterer, worked at a renovation project that was located at 330 West 38th St., in Manhattan. He claimed that he lost his balance while working atop a manually propelled scaffold. He contended that he fell to the floor and sustained back and [knee injuries](#).

Zoumis sued the building's owners, C & K Properties Inc. and 330 West 38th Street LLC; the building's managing agents, Media Partnership Inc. and Malibu Properties Inc.; the renovation project's general contractor, Sunrise Contracting Corp.; two subcontractors, Hi-Tech Contracting Inc. and Brookhaven Agency Inc.; and another firm, Pier 40 Operating LLC. He alleged that the defendants violated the labor law.

Zoumis subsequently discontinued his claims against all of the defendants except Sunrise Contracting.

Zoumis, who testified through a Greek interpreter, claimed that he fell about 9.5 feet and that he had not been provided a safety line. His safety expert contended that the Industrial Code specifies that all manually propelled mobile scaffolds must have a guardrail.

Zoumis' counsel claimed that the incident stemmed from an elevation-related hazard, as defined by Labor Law [entity=sect] 240(1), and that Zoumis was not provided the proper safety equipment that is a requirement of the statute. He also contended that the job site was not properly safeguarded and that, as such, the site violated Labor Law [entity=sect] 241(6). He further contended that the site violated the general safety requirements of Labor Law [entity=sect] 200.

Sunrise Contracting contended that it did not provide or exercise supervision of the use of the scaffold. It further contended that the accident was not witnessed, though it also contended that Zoumis' negligence was the proximate cause of the accident.

The defense's expert engineer determined that the scaffold was merely six feet off of the ground and that it was not required to have guardrails.

Zoumis sustained a contusion of his right leg's medial femoral condyle and tibial plateau, a tear of his right knee's medial meniscus, and deficiency and internal derangement of his right knee's anterior cruciate ligament. He also claimed that he developed disc bulges at L1-2, L2-3 and L3-4. His [knee injuries](#) were repaired via [arthroscopic surgery](#).

Zoumis claimed that he suffers ongoing, permanent limitations of his back and that the conditions constitute a permanent disability that prevents his resumption of work. Zoumis' vocational-rehabilitation expert determined that Zoumis is not employable.

Zoumis sought recovery of unspecified damages for his past and future pain and suffering. His wife sought recovery of damages for her loss of services.

Defense counsel contended that Zoumis' [knee injury](#) healed well and that his back injuries preexisted the accident.

The defense's expert orthopedist determined that Zoumis does not exhibit any orthopedic signs of disability or limitations.

The defense's vocational-rehabilitation expert determined that Zoumis, based on his experience and level of education, is able to find sedentary employment equal to his pre-accident salary.

Insurer:

Utica First Insurance Co. for Sunrise Contracting

ALM Properties, Inc.

Queens Supreme

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