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This memorandum is uncorrected and subject to revision before
publication in the New York Reports.

No. 231 SSM 45
Francesco Strangio,
Appellant,

v.

Sevenson Environmental Services,
Inc. and The Goodyear Tire &
Rubber Company,
Respondents.

Sevenson Environmental Services,
Inc., et al.,
Respondents,

v.

Thomas Johnson, Inc.,
Respondent.

Submitted by John A. Collins, for appellant.

Submitted by William D. Christ, for respondents
Sevenson Environmental Services, Inc. and Goodyear Tire & Rubber
Company.

Submitted by Michael T. Coutu, for respondent Thomas
Johnson, Inc.

MEMORANDUM:

The order of the Appellate Division should be modified,
without costs, by denying the motions of defendants and the
third-party defendant for summary judgment insofar as they seek
dismissal of plaintiff's Labor Law § 240 (1) claim and, as so
modified, affirmed.

Triable issues of fact exist as to whether the

defendants provided proper protection under Labor Law § 240 (1).
Plaintiff's remaining contentions lack merit.

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On review of submissions pursuant to section 500.11 of the Rules, order modified, without costs, by denying the motions of defendants and the third-party defendant for summary judgment insofar as they seek dismissal of plaintiff's Labor Law § 240(1) claim and, as so modified, affirmed, in a memorandum. Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

Decided November 30, 2010