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FOR IMMEDIATE RELEASE
Friday, July 1, 2022

Brooklyn Scaffolding Company and its Foreperson Indicted for Reckless Endangerment and Criminal Mischief in Scaffolding Collapse

Allegedly Failed to Remove Unsecured Scaffolding from Park Slope Construction Site, Despite Safety Concerns and Industry Protocols, Leading to Collapse that Left Woman Seriously Injured

Brooklyn District Attorney Eric Gonzalez, together with New York City Department of Investigation Commissioner Jocelyn E. Strauber and New York City Department of Buildings Commissioner Eric Ulrich, today announced that the foreman of a Brooklyn scaffolding company and the company have been arraigned on an indictment in which they are charged with reckless endangerment and criminal mischief for failing to remove unsecured scaffolding from a 12-story building under construction in Park Slope. High winds caused the scaffolding to collapse and plummet from the roof, striking a woman below in the courtyard of an adjacent bar.

District Attorney Gonzalez said, "This is a tragedy that never should have happened. The defendant allegedly ignored industry safety protocols by failing for days to either secure or remove the scaffolding at this site. His alleged inaction has had a profound and devastating impact on a young woman who will suffer the consequences for the rest of her life. We will now seek to hold him accountable for his reckless, irresponsible and criminal behavior."

Commissioner Strauber said, "These charges make clear that disregard of New York City's building code can have tragic consequences. As alleged, this foreman and his company knowingly failed to secure or remove roof scaffolding that posed a serious danger, and that ultimately caused injuries to individuals on the street below, including a young woman who suffered significant and permanent brain injuries. This tragedy was entirely preventable, and the charged conduct is not just unprofessional and irresponsible, it is criminal. We are committed to continuing to work with our law enforcement partners at the Brooklyn District Attorney's Office and the City Department of Buildings to identify and prevent this type of dangerous misconduct."

Commissioner Ulrich said, "Choosing not to perform required safety work on a construction site can have tragic and devastating consequences. If proper precautions were taken, this incident might have been avoided. I would like to personally thank our partners at the Brooklyn District Attorney's Office and at the Department of Investigation for bringing criminal charges in this important case."

The District Attorney identified the defendants as Zeke Fagan, 26, of Woodmere, New York, and Silvercup Scaffolding, of 29 Lorimer Street, in Williamsburg, Brooklyn. The defendants were arraigned today before Brooklyn Supreme Court Justice Jane Tully on an indictment in which they are charged with second-degree reckless endangerment and fourth-degree criminal mischief. They were ordered to return to court on August 11, 2022. Each of the misdemeanor counts they were charged with carries a maximum sentence of 364 days in jail.

The District Attorney said that, according to the investigation, on June 30, 2019, at approximately 3 p.m., support scaffolding on the roof of a 12-story building located at 243 4th Avenue in Park Slope, which was left largely disconnected from the bulkhead and which still had its netting attached, fell from that roof onto Mission Dolores, an adjacent bar with an outdoor patio directly below the rooftop of 243 4th Avenue. Three patrons were struck by the debris, including a 32-year-old woman who suffered serious, permanent brain injuries. Two other women suffered minor injuries. In addition, pieces of scaffolding, including metal pipes and wooden planks, shattered panes of glass in the bar's atrium area.

The scaffolding was initially secured to the building by "tie backs," which are metal rods that are connected to the building through a hole created in the wall. The scaffolding was also interconnected to itself and surrounded the entire bulkhead creating four interconnected sides to provide further support. Therefore, it was connected to the building and interconnected to itself, as required by the building code.

However, according to the investigation, on June 12, 2019, a subcontractor doing stucco work disconnected the tie backs of the scaffolding to fill in the holes created by the tie backs. That contractor allegedly immediately informed the general contractor's construction superintendent to make sure the scaffolding was dismantled by Silvercup the following day. Fagan, Silvercup's foreman, who was responsible for overseeing the scaffolding, was allegedly informed of this by the superintendent on June 14, 2019. Also, on that date, the superintendent texted Fagan a photograph of the scaffolding coming apart on the roof's bulkhead.

The scaffolding was never properly dismantled and remained in a precarious, unsecured condition for over two weeks, including days where there were high winds. On June 30, 2019, gusts of high winds swept through Park Slope and caught the netting of the scaffolding, causing a sail-like effect lifting the scaffolding up and away from the building. Notably, the extreme weather condition had been forecasted and advisories about it were sent out by the DOB.

The scaffolding then fell from the bulkhead over the side of the building and into the courtyard of Mission Dolores, a bar that was located at 249 4th Avenue, where numerous patrons were seated, including the 32-year-old woman who was struck in the head by a piece of the scaffolding and sustained serious injuries, including a fractured skull and permanent neurological trauma. Two other women seated in the courtyard sustained less severe injuries.

The case was investigated by DOI Assistant Inspector General Robert Miller, under the supervision of Inspector General Gregory Cho, Deputy Commissioner/Chief of Investigations Dominick Zarrella and First Deputy Commissioner Daniel G. Cort.

The case is being prosecuted by Senior Assistant District Attorneys T. Peter Choi and Rina Lee of the District Attorney's Frauds Bureau, under the supervision of Assistant District Attorney Gregory C. Pavlides, Bureau Chief, and the overall supervision of Assistant District Attorney Michel Spanakos, Deputy Chief of the District Attorney's Investigations Division, and Assistant District Attorney Patricia McNeill, Chief.

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An indictment is an accusatory instrument and not proof of a defendant's guilt.