

PRESS RELEASE

Roofing Company Principal Arrested For Failing To Protect An Employee Who Fell To His Death

Tuesday, July 25, 2023

For Immediate Release

U.S. Attorney's Office, Southern District of New York

Damian Williams, the United States Attorney for the Southern District of New York, and Jonathan Mellone, the Special Agent in Charge of the Northeast Region of the U.S. Department of Labor, Office of the Inspector General (“DOL-OIG”), announced today that JOSE LEMA, a/k/a “Jose Lema Mizhirumbay,” the founder and principal of ALJ Home Improvement, Inc., a New York roofing company, was charged with willfully violating Occupational Safety and Health Administration (“OSHA”) regulations, resulting in the death of an employee (“Victim-1”) in New Square, New York, on or about February 8, 2022. The Complaint charges that LEMA failed to ensure employees wore fall protection systems, and Victim-1 fell off the roof of a building under construction and died. LEMA was arrested this morning at his home in Nanuet, New York, and will be presented before U.S. Magistrate Judge Victoria Reznik in White Plains federal court later today.

U.S. Attorney Damian Williams said: “As alleged, Lema endangered the safety of his workers by disregarding regulations and failing to ensure his employees used fall protection systems. This conduct led to the death of a roof worker on a construction site. Today’s charge should serve as a reminder to small businesses that failure to comply with safety regulations can lead to unnecessary and preventable tragedy.”

DOL-OIG Special Agent in Charge Jonathan Mellone said: “An important part of the mission of the Office of Inspector General is to investigate allegations of criminal misconduct related to U.S. Department of Labor programs. We will continue to work with our law enforcement partners and DOL’s Occupational Safety and Health Administration to hold those who jeopardize workers’ safety accountable.”

As alleged in the Complaint:[\[1\]](#)

On the morning of February 8, 2022, LEMA sent Victim-1 and three other ALJ employees to install a roof on a three-story multi-family apartment building under construction in New Square, New York (the "Worksite"). Victim-1 and the other ALJ employees ascended a ladder to the roof, but within 20 to 30 minutes of arriving at the Worksite, Victim-1 fell off the roof and landed on the ground approximately 30 feet below. He died from his injuries. Victim-1 was wearing a safety harness, but there was no lanyard, rope, or any other attachment connected to the D-ring on the back of the harness that would have connected him to the roof. Nor were there anchors on the roof to attach a rope had there been one connected to the harness. OSHA cited ALJ for failing to ensure its employees were using fall protection systems.

Victim-1's deadly fall was not the first time an employee of LEMA and ALJ fell to his death at one of ALJ's worksites or that ALJ employees were exposed to fall hazards. OSHA investigated ALJ six times before Victim-1's death and once after. OSHA issued citations after each incident. The first time, on or about February 27, 2019, an ALJ employee slipped off the roof of a newly constructed three-story home in Kiamesha Lake, New York ("Victim-2"), fell 35 feet to the ground, and subsequently died from his injuries. OSHA determined that Victim-2 was not wearing a safety harness and issued citations to ALJ for, among other things, failure to ensure employees wear fall protection systems. ALJ settled and agreed to pay a penalty.

There were five more incidents on five different worksites in New York and New Jersey after Victim-2's death in February 2019 and before Victim-1's death in February 2022 in which ALJ employees were exposed to fall hazards and OSHA cited ALJ for failing to ensure its employees were using fall protection systems. In each case, ALJ settled and agreed to pay a penalty.

Even after Victim-1's death, LEMA continued to violate OSHA standards and failed to protect his employees. On or about August 4, 2022, ALJ employees were working on an 18-foot roof in Ho Ho Kus, New Jersey, without any apparent fall protection. They were wearing harnesses that were not secured to the roof. OSHA issued more citations, including willful failure to ensure employees wear fall protection systems.

In all, between in or about 2019 and in or about 2023, OSHA performed eight investigations of ALJ worksites that resulted in the issuance of 24 willful citations, 16 serious citations, and over \$2.3 million in penalties. Each time OSHA investigated, Compliance Safety and Health Officials met with LEMA and made him aware of his rights and obligations to his employees. At an OSHA administrative deposition, LEMA admitted that prior to Victim-1's fall, he knew that employees on a roof higher than six

feet high needed to be protected by some form of fall protection. But despite that knowledge, citations, and fines from six previous investigations, LEMA failed to follow OSHA standards and protect Victim-1 and his other employees.

* * *

LEMA, 40, of Nanuet, New York, is charged with one count of knowingly and willfully violating OSHA residential construction fall protection standards by failing to protect his employees from fall hazards and causing injuries that resulted in an employee's death, which carries a maximum sentence of six months in prison and a maximum fine of \$250,000 or twice the gross gain or loss from the offense.

The maximum potential sentence in this case is prescribed by Congress and is provided here for informational purposes only, as any sentencing of the defendant will be determined by the judge.

Mr. Williams praised the outstanding work of OSHA, DOL-OIG, and the Special Agents of the U.S. Attorney's Office for the Southern District of New York.

The case is being prosecuted by the Office's White Plains Division. Assistant U.S. Attorney Margery Feinzig is in charge of the prosecution.

The charge contained in the Complaint is merely an accusation, and the defendant is presumed innocent unless and until proven guilty.

[1] As the introductory phrase signifies, the entirety of the text of the Complaint and the description of the Complaint set forth herein constitute only allegations, and every fact described should be treated as an allegation.

[U.S. v. Lema Complaint](#)

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