

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

D13138
G/cb

_____AD3d_____

Submitted - November 9, 2006

ANITA R. FLORIO, J.P.
HOWARD MILLER
ROBERT A. SPOLZINO
MARK C. DILLON, JJ.

2006-00134

DECISION & ORDER

Victor Rodriguez, Jr., et al., appellants, v
White Plains Public Schools, et al., respondents.

(Index No. 1306/05)

Parisi & Patti, LLP, White Plains, N.Y. (Elizabeth W. Hobler of counsel), for appellants.

Henderson & Brennan, White Plains, N.Y. (John T. Brennan of counsel), for respondents.

In an action to recover damages for personal injuries, etc., the plaintiffs appeal from an order of the Supreme Court, Westchester County (LaCava, J.), entered December 12, 2005, which granted the defendants' motion for summary judgment dismissing the complaint.

ORDERED that the order is affirmed, with costs.

A landowner has a duty to maintain its premises in a reasonably safe condition (*see Basso v Miller*, 40 NY2d 233). A defendant who moves for summary judgment in a slip-and-fall case has the initial burden of making a prima facie showing that it neither created the hazardous condition nor had actual or constructive notice of its existence for a sufficient length of time to discover and remedy it (*see Perlongo v Park City 3 & 4 Apts.*, 31 AD3d 409). The defendants satisfied their burden (*see Alvarez v Prospect Hosp.*, 68 NY2d 320). In opposition, the plaintiffs failed to raise a triable issue of fact (*see Negron v St. Patrick's Nursing Home*, 248 AD2d 687). Accordingly, the

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Supreme Court properly granted the defendants' motion for summary judgment dismissing the complaint.

FLORIO, J.P., MILLER, SPOLZINO and DILLON, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive style with a large, looping initial "J".

James Edward Pelzer
Clerk of the Court