

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

D14112
X/cb

_____AD3d_____

Submitted - January 26, 2007

A. GAIL PRUDENTI, P.J.
ROBERT W. SCHMIDT
GABRIEL M. KRAUSMAN
RUTH C. BALKIN, JJ.

2005-11576

DECISION & ORDER

Jon Connelly, appellant, v Shop Rite Supermarkets,
Inc., etc., et al., defendants, Mason Avenue Holding,
respondent.

(Index No. 13783/02)

Law Offices of Charles A. Cerussi, P.C., New York, N.Y., for appellant.

Milber Makris Plousadis & Seiden, LLP, Woodbury, N.Y. (Lorin A. Donnelly of
counsel), for respondent.

In an action to recover damages for personal injuries, the plaintiff appeals, as limited by his brief, from so much of an order of the Supreme Court, Richmond County (Giacobbe, J.), dated September 15, 2005, as granted that branch of the motion of the defendant Mason Avenue Holding which was for summary judgment dismissing the complaint insofar as asserted against it.

ORDERED that the order is affirmed insofar as appealed from, with costs.

The defendant Mason Avenue Holding (hereinafter Mason) made a prima facie showing of its entitlement to judgment as a matter of law by demonstrating that it did not create the alleged icy condition which caused the plaintiff to slip and fall, that it did not have actual or constructive notice of that particular condition, and that it did not have actual notice of a recurring dangerous condition on the subject premises (*see Gordon v American Museum of Natural History*, 67 NY2d 836; *Murphy v 136 N. Blvd. Assoc.*, 304 AD2d 540; *Carricato v Jefferson Val. Mall Ltd. Partnership*, 299 AD2d 444; *Gloria v MGM Emerald Enters.*, 298 AD2d 355). In opposition, the plaintiff failed to raise a triable issue of fact. Accordingly, the Supreme Court properly granted that

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branch of Mason's motion which was for summary judgment dismissing the complaint insofar as asserted against it.

PRUDENTI, P.J., SCHMIDT, KRAUSMAN and BALKIN, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court