

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

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Argued - June 14, 2007

A. GAIL PRUDENTI, P.J.  
WILLIAM F. MASTRO  
DANIEL D. ANGIOLILLO  
THOMAS A. DICKERSON, JJ.

2006-06413

DECISION & ORDER

Maryann Casale, appellant, v Brookdale Medical Associates, et al., respondents, et al., defendants.

(Index No. 20472/05)

Eric H. Green, New York, N.Y. (Mark Gertler of counsel), for appellant.

Wilson, Elser, Moskowitz, Edelman & Dicker, LLP, New York, N.Y. (Richard E. Lerner and Bianca Michelis of counsel), for respondent Brookdale Medical Associates.

Bower, Sanger & Lawrence, P.C., New York, N.Y. (Carol S. Blatt of counsel), for respondent Budget Wines & Liquors, Inc.

In an action to recover damages for personal injuries, the plaintiff appeals from an order of the Supreme Court, Kings County (Schack, J.), dated May 30, 2006, which granted the separate motions of the defendants BHMC Enterprises, Inc., s/h/a Brookdale Medical Associates, and Budget Wines & Liquors, Inc., for summary judgment dismissing the complaint and all cross claims insofar as asserted against them.

ORDERED that the order is affirmed, with one bill of costs.

“[T]he imposition of liability for a dangerous condition on property must be predicated upon occupancy, ownership, control, or special use of the premises” (*James v Stark*, 183 AD2d 873, 873; *see Ellers v Horwitz Family Ltd. Partnership*, 36 AD3d 849, 850-851; *Schwalb v Kulaski*, 29 AD3d 563; *Welwood v Association for Children with Down Syndrome*, 248 AD2d 707). In this case, the plaintiff allegedly slipped and fell in a parking lot adjacent to a building owned by the defendant

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Budget Wines & Liquors, Inc. (hereinafter Budget), and leased to the defendant BHMC Enterprises, Inc., s/h/a Brookdale Medical Associates (hereinafter Brookdale). In support of their respective motions for summary judgment dismissing the complaint and all cross claims insofar as asserted against them, both Budget and Brookdale demonstrated that they did not own, occupy, control, or make special use of the parking lot in which the accident occurred. In opposition, the plaintiff failed to raise a triable issue of fact. Accordingly, the Supreme Court properly granted summary judgment in favor of Budget and Brookdale, dismissing the complaint and all cross claims insofar as asserted against them.

The parties' remaining contentions are without merit.

PRUDENTI, P.J., MASTRO, ANGIOLILLO and DICKERSON, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer  
Clerk of the Court