

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

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_____AD3d_____

Submitted - June 11, 2007

HOWARD MILLER, J.P.
GLORIA GOLDSTEIN
STEVEN W. FISHER
JOSEPH COVELLO, JJ.

2006-09898

DECISION & ORDER

Charles Pisano, appellant, v Young Women's
Christian Association of Brooklyn, respondent,
et al., defendants.

(Index No. 4828/05)

Marylyn P. Lipman, P.C., Brooklyn, N.Y., for appellant.

Thomas M. Bona, P.C., White Plains, N.Y. (Ezra Simon, Stephanie Bellantoni, and
Joseph F. Dursi, Jr., of counsel), for respondent.

In an action to recover damages for personal injuries, the plaintiff appeals from an order of the Supreme Court, Kings County (Partnow, J.), dated September 19, 2006, which granted the motion of the defendant Young Women's Christian Association of Brooklyn for summary judgment dismissing the complaint insofar as asserted against it.

ORDERED that the order is affirmed, with costs.

On its motion for summary judgment, the defendant Young Women's Christian Association of Brooklyn (hereinafter the YWCA) established its prima facie entitlement to judgment as a matter of law (*see Alvarez v Prospect Hosp.*, 68 NY2d 320, 324) by submitting evidence establishing that it neither created the allegedly dangerous condition at issue nor had actual or constructive notice of it (*see Nu Li Lin v New York City Hous. Auth.*, 36 AD3d 776; *Gallais-Pradal v YWCA of Brooklyn*, 33 AD3d 660). In opposition, the plaintiff failed to raise a triable issue of fact

September 4, 2007

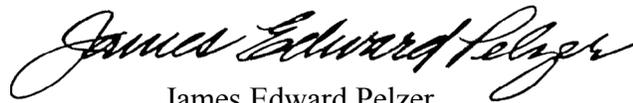
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(see *Alvarez v Prospect Hosp.*, *supra* at 324). Accordingly, the Supreme Court correctly granted the YWCA's motion (see *Nu Li Lin v New York City Hous. Auth.*, *supra* at 776; *Gallais-Pradal v YWCA of Brooklyn*, *supra* at 660).

MILLER, J.P., GOLDSTEIN, FISHER and COVELLO, 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