

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

D18334
C/prt

_____AD3d_____

Submitted - January 18, 2008

WILLIAM F. MASTRO, J.P.
ANITA R. FLORIO
HOWARD MILLER
THOMAS A. DICKERSON, JJ.

2006-11290

DECISION & ORDER

Timothy Kauffmann, et al., appellants,
v Iso Capric, et al., respondents.

(Index No. 12794/04)

Wingate, Russotti & Shapiro, LLP, New York, N.Y. (Scott A. Stern of counsel), for appellants.

Marshall, Conway, Wright & Bradley, P.C., New York, N.Y. (Steven L. Sonkin of counsel), for respondents.

In an action to recover damages for personal injuries, etc., the plaintiffs appeal from an order of the Supreme Court, Richmond County (McMahon, J.), dated September 21, 2006, which granted the defendants' motion for summary judgment dismissing the complaint.

ORDERED that the order is affirmed, with costs.

In response to the defendants' showing that they neither created nor had actual or constructive notice of the alleged hazardous condition complained of for a sufficient length of time to discover and remedy it, the plaintiffs failed to submit admissible evidence sufficient to show the existence of a triable issue of fact (*see Gordon v American Museum of Natural History*, 67 NY2d 836; *Arrufat v City of New York*, 45 AD3d 710; *Seabury v County of Dutchess*, 38 AD3d 752; *Britto v Great Atl. & Pac. Tea Co., Inc.*, 21 AD3d 436). Accordingly, the Supreme Court properly granted the defendants' motion for summary judgment dismissing the complaint (*see generally Alvarez v Prospect Hosp.*, 68 NY2d 320, 324).

MASTRO, J.P., FLORIO, MILLER and DICKERSON, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court

March 11, 2008

KAUFFMANN v CAPRIC