

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

D18349
X/kmg

_____AD3d_____

Submitted - February 7, 2008

STEVEN W. FISHER, J.P.
HOWARD MILLER
WILLIAM E. McCARTHY
CHERYL E. CHAMBERS, JJ.

2006-09763

DECISION & ORDER

Liwayway Ramos, appellant, v Cooper
Investors, Inc., et al., respondents.

(Index No. 12831/04)

Susan C. Warnock, New York, N.Y., for appellant.

Conroy, Simberg, Ganon, Krevans, Abel, Lurvey, Morrow & Schefer, P.C., New
York, N.Y. (Jeffrey J. Imeri of counsel), for respondents.

In an action to recover damages for personal injuries, the plaintiff appeals, as limited by her brief, from so much of an order of the Supreme Court, Queens County (Weiss, J.), dated July 31, 2006, as granted those branches of the defendants' motion which were for summary judgment dismissing the complaint insofar as asserted against the defendants Cooper Investors, Inc., Flushing Center, Inc., and Flushing Center, Inc., d/b/a Sheraton LaGuardia East Hotel.

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

The plaintiff tripped and fell when she failed to notice a curb separating the walkway area in front of the defendants' hotel and an adjacent roadway. After the plaintiff commenced the present action, the defendants moved for summary judgment, inter alia, dismissing the complaint insofar as asserted against the defendants Cooper Investors, Inc., Flushing Center, Inc., and Flushing Center, Inc., d/b/a Sheraton LaGuardia East Hotel (hereinafter collectively the respondents). The Supreme Court properly granted those branches of the motion which were for summary judgment dismissing the complaint insofar as asserted against the respondents.

March 11, 2008

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RAMOS v COOPER INVESTORS, INC.

“A landowner has no duty to warn of conditions that are not inherently dangerous and ‘that are readily observable by the reasonable use of one’s senses’” (*Pirie v Krasinski*, 18 AD3d 848, 849, quoting *Pedersen v Kar, Ltd.*, 283 AD2d 625, 625-626). The respondents established their prima facie entitlement to judgment as a matter of law by tendering evidence that the height differential between the walkway and the roadway was both open and obvious and not inherently dangerous (*see Pirie v Krasinski*, 18 AD3d at 849; *Behar v All Seasons Motor Lodge*, 6 AD3d 639).

In opposition, the plaintiff failed to submit evidence sufficient to raise a triable issue of fact (*see Winegrad v New York Univ. Med. Ctr.*, 64 NY2d 851; *Behar v All Seasons Motor Lodge*, 6 AD3d at 640).

FISHER, J.P., MILLER, McCARTHY and CHAMBERS, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court