

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

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_____AD3d_____

Argued - May 9, 2008

WILLIAM F. MASTRO, J.P.
PETER B. SKELOS
ROBERT A. LIFSON
JOHN M. LEVENTHAL, JJ.

2007-05234

DECISION & ORDER

Joan Roveccio, appellant, v Oak Park at
Douglaston Unit Owners Association, Inc.,
respondent.

(Index No. 602/05)

Levine & Gilbert, New York, N.Y. (Harvey A. Levine of counsel), for appellant.

Thomas D. Hughes, New York, N.Y. (Richard C. Rubinstein of counsel), for
respondent.

In an action to recover damages for personal injuries, the plaintiff appeals from an
order of the Supreme Court, Queens County (Grays, J.), dated May 1, 2007, which granted the
defendant's motion for summary judgment dismissing the complaint.

ORDERED that the order is affirmed, with costs.

The plaintiff brought this action after she allegedly was injured when she slipped and
fell on a patch of ice while descending the stairway leading from her condominium to the street
below. The defendant established its prima facie entitlement to judgment as a matter of law by
presenting evidence that it neither created nor had actual or constructive notice of the icy condition
(*see Schmidt v DiPerno*, 25 AD3d 545, 546). The evidence which the plaintiff submitted in
opposition failed to raise a triable issue of fact as to whether the defendant had actual notice of an
alleged recurrent dangerous condition regarding pooled water on the steps and thus was chargeable
with constructive notice of each specific occurrence of the condition (*see Andujar v Benenson Inv.*

May 27, 2008

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ROVECCIO v OAK PARK AT DOUGLASTON UNIT OWNERS ASSOCIATION, INC.

Co., 299 AD2d 503). Accordingly, the Supreme Court properly granted the defendant's motion for summary judgment dismissing the complaint.

MASTRO, J.P., SKELOS, LIFSON and LEVENTHAL, 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