

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

D21549  
Y/prt

\_\_\_\_\_AD3d\_\_\_\_\_

Argued - November 17, 2008

STEVEN W. FISHER, J.P.  
DANIEL D. ANGIOLILLO  
THOMAS A. DICKERSON  
ARIEL E. BELEN, JJ.

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2007-04046

DECISION & ORDER

Richard Crawford, appellant, v Jefferson  
House Associates, LLC, et al., respondents.

(Index No. 16467/05)

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Quaranta & Associates, Mount Kisco, N.Y. (Beverly T. McGrath of counsel), for appellant.

Thomas D. Hughes, New York, N.Y. (Richard C. Rubinstein and David D. Hess of counsel), for respondents.

In an action to recover damages for personal injuries, the plaintiff appeals from an order of the Supreme Court, Westchester County (Nicolai, J.), entered April 4, 2007, which granted the defendants' motion for summary judgment dismissing the complaint.

ORDERED that the order is affirmed, with costs.

The plaintiff allegedly slipped and fell while walking down the stairway of the subject apartment building. The surface of the concrete and steel stairway was painted, and the plaintiff reported seeing a small amount of coffee spilled on the step on which he slipped.

The defendants established their entitlement to summary judgment by demonstrating that they had no actual or constructive notice of the allegedly dangerous condition (*see Gordon v American Museum of Natural History*, 67 NY2d 836, 837; *Applegate v Long Is. Power Auth.*, 53 AD3d 515, 516; *Palermo v Roman Catholic Diocese of Brooklyn, N.Y.*, 20 AD3d 516, 517), nor had their affirmative acts created the dangerous condition (*see German v Campbell Inn*, 37 AD3d 405; *Rodriguez v Kimco Centereach*, 605, 298 AD2d 571, 571-572; *Lindeman v Vecchione Constr. Corp.*,

December 23, 2008

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275 AD2d 392). In opposition, the plaintiff failed to submit sufficient evidence to raise a triable issue of fact (*see German v Campbell Inn*, 37 AD3d 405; *Palermo v Roman Catholic Diocese*, 20 AD3d at 517; *Rodriguez v Kimco Centereach 605*, 298 AD2d at 571-572; *Lindeman v Vecchione Constr. Corp.*, 275 AD2d 392). The expert affidavit submitted in opposition to the motion merely alleged that the application of paint to the stairway made it inherently slippery, and the stairway failed to meet “good and accepted” engineering safety practices. These conclusory allegations were insufficient to raise a triable issue of fact (*see German v Campbell Inn*, 37 AD3d 405; *Rodriguez v Kimco Centereach 605*, 298 AD2d at 571-572; *see also Murphy v Conner*, 84 NY2d 969, 971-972; *Lindeman v Vecchione Constr. Corp.*, 275 AD2d 392). Accordingly, the Supreme Court properly granted the defendants’ motion for summary judgment dismissing the complaint.

The plaintiff’s remaining contentions are not properly before us.

FISHER, J.P., ANGIOLILLO, DICKERSON and BELEN, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court