

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

D22063
Y/prt

_____AD3d_____

Argued - January 5, 2009

ROBERT A. SPOLZINO, J.P.
FRED T. SANTUCCI
JOHN M. LEVENTHAL
CHERYL E. CHAMBERS, JJ.

2007-10810

DECISION & ORDER

Christine Bishop, appellant, v
Laurie Marsh, et al., respondents.

(Index No. 21883/05)

Sarisohn, Sarisohn, Carner, Lebow, Braun & Shieber, Commack, N.Y. (Nicholas J. Damadeo, P.C., of counsel), for appellant.

Sobel & Kelly, P.C., Huntington, N.Y. (Christopher J. Roess of counsel), for respondents.

In an action to recover damages for personal injuries, the plaintiff appeals from an order of the Supreme Court, Suffolk County (Doyle, J.), dated October 2, 2007, which granted the defendants' motion for summary judgment dismissing the complaint.

ORDERED that the order is affirmed, with costs.

The defendants established their prima facie entitlement to judgment as a matter of law by submitting the deposition testimony of the parties which established the absence of evidence of a defective or dangerous condition (*see Puma v New York City Tr. Auth.*, 55 AD3d 585; *DeSantis v Lessing's, Inc.*, 46 AD3d 742; *Golba v City of New York*, 27 AD3d 524; *Przybyszewski v Wonder Works Constr.*, 303 AD2d 482). In opposition to the motion, the plaintiff failed to raise a triable issue of fact as to the existence of a dangerous or defective condition (*see generally Alvarez v Prospect Hosp.*, 68 NY2d 320, 324). Although the plaintiff alleged that the lighting at the location of her fall was inadequate at the time of the incident, she neither testified at her deposition nor stated in her affidavit submitted in opposition to the summary judgment motion that she tripped as a result of inadequate illumination (*see DiGeorgio v Morotta*, 47 AD3d 752, 752-753; *Leib v Silo Rest., Inc.*,

26 AD3d 359, 360; *Curran v Esposito*, 308 AD2d 428, 429). Accordingly, the Supreme Court properly granted the defendants' motion for summary judgment dismissing the complaint.

SPOLZINO, J.P., SANTUCCI, LEVENTHAL and CHAMBERS, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style with a large initial "J".

James Edward Pelzer
Clerk of the Court