

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

D22640  
Y/prt

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

Argued - February 2, 2009

STEVEN W. FISHER, J.P.  
JOSEPH COVELLO  
DANIEL D. ANGIOLILLO  
THOMAS A. DICKERSON, JJ.

2008-01000

DECISION & ORDER

Tatiana Tomao, etc., et al., appellants,  
v City of New York, et al., respondents.

(Index No. 102792/05)

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Jonathan D'Agostino & Associates, P.C., Staten Island, N.Y. (Edward J. Pavia, Jr., of counsel), for appellants.

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Edward F. X. Hart and Marta Ross of counsel; Lawrence Estrada on the brief), for respondents.

In an action, inter alia, to recover damages for personal injuries, etc., the plaintiffs appeal from an order of the Supreme Court, Richmond County (Aliotta, J.), dated December 10, 2007, which granted the defendants' motion for summary judgment dismissing the complaint.

ORDERED that the order is affirmed, with costs.

In this slip-and-fall case, the defendants made a prima facie showing of their entitlement to judgment as a matter of law by submitting evidence demonstrating that they neither created nor had actual or constructive notice of the allegedly dangerous condition created by water that had just been tracked into a school by the infant plaintiff (*see Rodriguez v White Plains Pub. School*, 35 AD3d 704, 705; *Hackbarth v McDonalds Corp.*, 31 AD3d 498, 499; *Negron v St. Patrick's Nursing Home*, 248 AD2d 687; *Kovelsy v City University of N.Y.*, 221 AD2d 234, 235). Moreover, the defendants also made a prima facie showing that they did not fail to exercise that degree of reasonable care over the infant plaintiff that a parent of ordinary prudence would have exercised under comparable circumstances (*see Hilf v Massapequa Union Free School Dist.*, 245 AD2d 261, 262). In opposition, the plaintiffs failed to raise a triable issue of fact (*see generally*

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*Alvarez v Prospect Hosp.*, 68 NY2d 320, 324). Accordingly, the Supreme Court properly granted the defendants' motion for summary judgment dismissing the complaint.

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

ENTER:

A handwritten signature in cursive script that reads "James Edward Pelzer".

James Edward Pelzer  
Clerk of the Court