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

D23596
T/prt

_____AD3d_____ Submitted - April 23, 2009

A. GAIL PRUDENTI, P.J.
HOWARD MILLER
RANDALL T. ENG
ARIEL E. BELEN, JJ.

2008-04025 DECISION & ORDER

Irene Pepperman, appellant, v SBL Holdings,
d/b/a East Bay Diner, et al., respondents.

(Index No. 17817/04)

Irene Pepperman, Woodmere, N.Y., appellant pro se.

Chesney & Murphy, LLP, Baldwin, N.Y. (Peter J. Verdirame of counsel), for respondents.

In an action to recover damages for personal injuries, the plaintiff appeals from a judgment of the Supreme Court, Nassau County (Woodard, J.), entered April 21, 2008, which, upon an order of the same court entered March 20, 2008, granting the defendants' motion for summary judgment dismissing the complaint, is in favor of the defendants and against her dismissing the complaint. The notice of appeal from the order is deemed a notice of appeal from the judgment (*see* CPLR 5512[a]).

ORDERED that the judgment is affirmed, with costs.

"[A] landowner must act as a reasonable [person] in maintaining his [or her] property in a reasonably safe condition in view of all the circumstances, including the likelihood of injury to others, the seriousness of the injury, and the burden of avoiding the risk" (*Basso v Miller,* 40 NY2d 233, 241; *see Peralta v Henriquez,* 100 NY2d 139, 144; *Cupo v Karfunkel,* 1 AD3d 48, 51). The defendants established, prima facie, that the alleged accident and resulting injuries sustained by the plaintiff were not proximately caused by any negligence on their part in failing to maintain the premises in a safe condition. In opposition, the plaintiff failed to raise a triable issue of fact (*see Alvarez v Prospect Hosp.,* 68 NY2d 320, 324). Accordingly, the Supreme Court properly granted

the defendants' motion for summary judgment.

The plaintiff's remaining contention is without merit.

PRUDENTI, P.J., MILLER, ENG and BELEN, JJ., concur.

ENTER:

James Edward Pelzer
Clerk of the Court