

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

D23646
Y/prt

_____AD3d_____

Argued - May 18, 2009

ROBERT A. SPOLZINO, J.P.
DANIEL D. ANGIOLILLO
CHERYL E. CHAMBERS
L. PRISCILLA HALL, JJ.

2008-09089

DECISION & ORDER

Andrew Arata, etc., et al., respondents, v
Parviz Farahzad, et al., appellants (and a
third-party action).

(Index No. 8448/06)

Greenfield & Ruhl, Uniondale, N.Y. (Charles T. Ruhl of counsel), for appellants.

Mitchell R. Kahn, New York, N.Y. (Douglas Shearer of counsel), for respondents.

In an action to recover damages for personal injuries, etc., the defendants appeal from so much of an order of the Supreme Court, Nassau County (Lally, J.), dated July 17, 2008, as denied that branch of their motion which was for summary judgment dismissing the complaint insofar as asserted against the defendant Darkside Productions, Inc.

ORDERED that the order is reversed insofar as appealed from, on the law, with costs, and that branch of the motion which was for summary judgment dismissing the complaint insofar as asserted against the defendant Darkside Productions, Inc., is granted.

The Supreme Court should have granted that branch of the defendants' motion which was for summary judgment dismissing the complaint insofar as asserted against the defendant Darkside Productions, Inc. (hereinafter Darkside). The defendants submitted evidence sufficient to establish, prima facie, that Darkside maintained the subject premises in a reasonably safe condition and that its employee did not conduct himself in a negligent manner (*see Alvarez v Prospect Hosp.*, 68 NY2d 320; *Weinberg v JAF Color Labs, Inc.*, 57 AD3d 769; *Dabnis v West Islip Pub. Lab.*, 45 AD3d 802). In opposition, the plaintiffs failed to raise a triable issue of fact (*see Alvarez v Prospect*

June 23, 2009

Page 1.

ARATA v FARAHZAD

Hosp., 68 NY2d 320; *Zuckerman v City of New York*, 49 NY2d 557).

In light of our determination, we need not reach the parties' remaining contentions.

SPOLZINO, J.P., ANGIOLILLO, CHAMBERS and HALL, 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