

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

D23685  
T/prt

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

Submitted - April 28, 2009

MARK C. DILLON, J.P.  
ANITA R. FLORIO  
RUTH C. BALKIN  
LEONARD B. AUSTIN, JJ.

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2008-04271

DECISION & ORDER

Wendy Flederbach, et al., respondents, v Yvacheslav Faymen, et al., defendants, Suffolk County Department of Public Works, et al., appellants.

(Index No. 27369/03)

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Christine Malafi, County Attorney, Hauppauge, N.Y. (Marcia J. Lynn of counsel), for appellants.

Tinari, O'Connell, Osborn & Kaufman, LLP, Central Islip, N.Y. (Frank A. Tinari of counsel), for respondents.

In an action to recover damages for personal injuries, etc., the defendants Suffolk County Department of Public Works, Suffolk County Police Department, and County of Suffolk appeal from an order of the Supreme Court, Suffolk County (Emerson, J.), dated April 21, 2008, which denied their motion for summary judgment dismissing the complaint insofar as asserted against them.

ORDERED that the order is reversed, on the law, with costs, and the motion of the defendants Suffolk County Department of Public Works, Suffolk County Police Department, and County of Suffolk for summary judgment dismissing the complaint insofar as asserted against them is granted.

The plaintiffs seek to recover damages from, among others, the defendants Suffolk County Department of Public Works, Suffolk County Police Department, and County of Suffolk (hereinafter the County defendants) for a motor vehicle accident that occurred on an allegedly icy or otherwise dangerous roadway. The County defendants established their prima facie entitlement to

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judgment as a matter of law by submitting an affidavit showing that the County of Suffolk did not have prior written notice of the condition at issue, and the plaintiffs failed to raise a triable issue of fact in response (*see* Suffolk County Charter § C8-2A; *Ferreira v County of Orange*, 34 AD3d 724, 725; *Gold v County of Westchester*, 15 AD3d 439, 440).

The plaintiffs' remaining contention is without merit.

DILLON, J.P., FLORIO, BALKIN and AUSTIN, JJ., concur.

ENTER:

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

James Edward Pelzer  
Clerk of the Court