

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

D24108  
G/kmg

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

Argued - March 24, 2009

STEVEN W. FISHER, J.P.  
HOWARD MILLER  
CHERYL E. CHAMBERS  
LEONARD B. AUSTIN, JJ.

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2007-11492

DECISION & ORDER

Melinda Ghany, etc., appellant, v Yasmin A.  
Hossain, et al., respondents.

(Index No. 571/06)

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Devitt Spellman Barrett, LLP, Smithtown, N.Y. (John M. Denby of counsel), for appellant.

Rivkin Radler LLP, Uniondale, N.Y. (Evan H. Krinick, Cheryl F. Korman, and Merrill S. Biscone of counsel), for respondents.

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

ORDERED that the order is affirmed, with costs.

The plaintiff's decedent allegedly fell down a flight of stairs leading from the first floor to the basement inside the defendants' two-family house, sustaining serious injuries that led to his death. After discovery was completed, the defendants moved for summary judgment dismissing the complaint, and the Supreme Court granted the motion. We affirm.

On a motion for summary judgment, the movant must make a prima facie showing of entitlement to judgment as a matter of law (*see Winegrad v New York Univ. Med. Ctr.*, 64 NY2d 851; *Zuckerman v City of New York*, 49 NY2d 557). Here, the defendants satisfied their burden and, in opposition, the plaintiff failed to raise a triable issue of fact (*see Grob v Kings Realty Assoc.*, 4 AD3d 394, 395). In opposition to the motion, the plaintiff submitted, inter alia, the affidavit of an expert witness, who opined, in pertinent part, that the condition of the subject stairs and the upper portion

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of the handrail were substantial factors in causing the decedent's injuries. Even if the stairway and handrail were defective, as the expert opined, the Supreme Court properly determined that his conclusion linking the alleged defects to the decedent's fall was purely speculative (*see Grob v Kings Realty Assoc.*, 4 AD3d at 395). Accordingly, the Supreme Court properly awarded the defendants summary judgment dismissing the complaint.

FISHER, J.P., MILLER, CHAMBERS 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