

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

D24217
G/kmg

_____AD3d_____

Submitted - May 7, 2009

ROBERT A. SPOLZINO, J.P.
DANIEL D. ANGIOLILLO
JOHN M. LEVENTHAL
PLUMMER E. LOTT, JJ.

2008-05397

DECISION & ORDER

Rose Scott, appellant, v Rochdale Village, Inc.,
respondent.

(Index No. 18884/05)

Simon & Gilman, LLP, Forest Hills, N.Y. (Keith A. Gilman of counsel), for appellant.

Baker Greenspan & Bernstein, Bellmore, N.Y. (Robin R. Halstrom of counsel), for
respondent.

In an action to recover damages for personal injuries, the plaintiff appeals from an order of the Supreme Court, Queens County (Agate, J.), entered April 17, 2008, which granted the defendant's motion for summary judgment dismissing the complaint.

ORDERED that the order is affirmed, with costs.

The plaintiff allegedly sustained various personal injuries when she slipped and fell on an interior stairway in the building within the defendant's apartment complex where she resided. On its motion for summary judgment, the defendant met its burden of establishing its prima facie entitlement to judgment as a matter of law (*see Alvarez v Prospect Hosp.*, 68 NY2d 320, 324), by demonstrating that the plaintiff was unable to identify the cause of her accident without engaging in speculation (*see Constantino v Webel*, 157 AD3d 472; *Slattery v O'Shea*, 46 AD3d 669, 670; *Manning v 6638 18th Ave. Realty Corp.*, 28 AD3d 434, 435). In response, the plaintiff failed to raise a triable issue of fact as to the cause of the accident (*see Manning v 6638 18th Ave. Realty Corp.*, 28 AD3d at 435). Accordingly, the Supreme Court properly granted the defendant's motion for

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summary judgment.

SPOLZINO, J.P., ANGIOLILLO, LEVENTHAL and LOTT, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive style with a large, looping initial "J".

James Edward Pelzer
Clerk of the Court