

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

D25922  
C/cb

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

Argued - December 21, 2009

PETER B. SKELOS, J.P.  
RUTH C. BALKIN  
JOHN M. LEVENTHAL  
PLUMMER E. LOTT, JJ.

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2008-09765

DECISION & ORDER

Marie S. Dalinedesroches, appellant, v Vivian Lazard,  
etc., respondent.

(Index No. 14476/06)

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Ornstein & Ornstein, P.C. (Pollack, Pollack, Isaac & De Cicco New York, N.Y.  
[Brian J. Isaac and Jillian Rosen], of counsel), for appellant.

James J. Toomey, New York, N.Y. (Evy L. Kazansky of counsel), for respondent.

In an action to recover damages for personal injuries, the plaintiff appeals from an order of the Supreme Court, Kings County (Hurkin-Torres, J.), dated August 13, 2008, which granted the defendant's motion for summary judgment dismissing the complaint.

ORDERED that the order is affirmed, with costs.

The defendant established her prima facie entitlement to judgment as a matter of law by submitting the plaintiff's deposition testimony, in which the plaintiff was unable to explain what caused her to trip and fall (*see Curran v Esposito*, 308 AD2d 428, 429; *Hartman v Mountain Val. Brew Pub*, 301 AD2d 570), and proof that the stairway in question was not defective. In response, the plaintiff failed to raise a triable issue of fact as to the cause of the accident or the existence of any defective condition on the stairway (*see Manning v 6638 18th Ave. Realty Corp.*, 28 AD3d 434, 435).

February 2, 2010

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Accordingly, the Supreme Court properly granted the defendant's motion for summary judgment dismissing the complaint.

SKELOS, J.P., BALKIN, LEVENTHAL and LOTT, 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