

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

D27895  
G/prt

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

Argued - May 25, 2010

STEVEN W. FISHER, J.P.  
FRED T. SANTUCCI  
HOWARD MILLER  
PLUMMER E. LOTT, JJ.

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2009-04105

DECISION & ORDER

Margaret Bryan, appellant, v City of Peekskill, et al.,  
respondents.

(Index No. 13482/07)

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Annette G. Hasapidis, South Salem, N.Y., for appellant.

William J. Florence, Jr., Corporation Counsel, Peekskill, N.Y., for respondents.

In an action to recover damages for personal injuries, the plaintiff appeals from an order of the Supreme Court, Westchester County (Giacomo, J.), entered March 13, 2009, which granted the defendants' motion for summary judgment dismissing the complaint.

ORDERED that the order is affirmed, with costs.

The defendants made a prima facie showing that the area where the plaintiff fell was the functional equivalent of a street, sidewalk, or highway within the meaning of General Municipal Law § 50-e(4) and section C199 of the Peekskill City Charter (hereinafter section C199) (*see Mullen v Town of Hempstead*, 66 AD3d 745, 746; *Schneid v City of White Plains*, 150 AD2d 549, 550). Furthermore, through the affidavit of the Director of the City of Peekskill Department of Public Works, the defendants made a prima facie showing that they did not receive prior written notice of the allegedly defective condition of the subject area, as required by section C199 (*see Yarborough v City of New York*, 10 NY3d 726, 727-728; *Marshall v City of New York*, 52 AD3d 586, 586-587). In opposition, the plaintiff failed to raise a triable issue of fact (*see Amabile v City of Buffalo*, 93 NY2d 471, 474; *Denio v City of New Rochelle*, 71 AD3d 717).

The plaintiff's remaining contentions are either not properly before this Court or without merit.

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

FISHER, J.P., SANTUCCI, MILLER 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