

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

D28436
C/hu

_____AD3d_____

Submitted - September 7, 2010

JOSEPH COVELLO, J.P.
FRED T. SANTUCCI
RUTH C. BALKIN
LEONARD B. AUSTIN, JJ.

2009-07116

DECISION & ORDER

Mark Arzu, appellant, v County of Nassau, et al.,
respondents.

(Index No. 10616/04)

Frederick K. Brewington, Hempstead, N.Y. (Ira Fogelgaren of counsel), for appellant.

John Ciampoli, County Attorney, Mineola, N.Y. (Jackie L. Gross of counsel; Sandra H. Kenney on the brief), for respondents.

In an action to recover damages for personal injuries, the plaintiff appeals from an order of the Supreme Court, Nassau County (Mahon, J.), entered June 5, 2009, which granted the defendants' motion for summary judgment dismissing the complaint.

ORDERED that the order is affirmed, with costs.

The plaintiff allegedly sustained personal injuries when he slipped and fell on water on the bathroom floor of the defendants' facility. The defendants established their entitlement to judgment as a matter of law by demonstrating that they did not create the alleged hazardous condition or have actual or constructive notice of it (*see Otey v City of New York*, 42 AD3d 515; *Gallais-Pradal v YWCA of Brooklyn*, 33 AD3d 660; *Perlongo v Park City 3 & 4 Apts., Inc.*, 31 AD3d 409; *Lowe v Olympia & York Cos. [USA]*, 238 AD2d 317). In opposition, the plaintiff failed to raise a triable issue of fact (*see Alvarez v Prospect Hosp.*, 68 NY2d 320). Contrary to the plaintiff's contention, there was insufficient evidence to raise a triable issue of fact as to whether the defendants had actual notice of a recurring hazardous condition which proximately caused him to fall (*see Gallais-Pradal v YWCA of Brooklyn*, 33 AD3d 660; *Perlongo v Park City 3 & 4 Apts., Inc.*, 31

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AD3d 409). Accordingly, the Supreme Court properly granted the defendants' motion for summary judgment dismissing the complaint.

COVELLO, J.P., SANTUCCI, BALKIN and AUSTIN, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court