

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

D28464
H/prt

_____AD3d_____

Argued - September 13, 2010

PETER B. SKELOS, J.P.
DANIEL D. ANGIOLILLO
L. PRISCILLA HALL
PLUMMER E. LOTT, JJ.

2009-01197

DECISION & ORDER

Joseph Vosilla, appellant, v City of New York,
respondent, et al., defendants (and a third-party
action).

(Index No. 17246/02)

The McDonough Law Firm, LLP, New Rochelle, N.Y. (Mark J. Sarro and Daniel Allen Cohn of counsel), for appellant.

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Barry P. Schwartz and Julie Steiner of counsel), for respondent.

In an action to recover damages for personal injuries, the plaintiff appeals, as limited by his brief, from so much of an order of the Supreme Court, Queens County (Kerrigan, J.), entered November 26, 2008, as granted that branch of the motion of the defendant City of New York which was for summary judgment dismissing the cause of action asserted pursuant to General Municipal Law § 205-a insofar as asserted against it.

ORDERED that the order is affirmed insofar as appealed from, with costs.

The plaintiff firefighter alleges that the City of New York violated certain provisions of the New York City Fire Department All Unit Circulars, Incident Command System manual provisions, and internal rules concerning, inter alia, classification and inspection of buildings, and that such violations directly or indirectly caused the injuries he sustained in the line of duty. These internal regulations, however, cannot serve as a predicate for liability under General Municipal Law § 205-a, since they are not part of a “well-developed body of law and regulation” imposing clear legal duties

October 5, 2010

Page 1.

VOSILLA v CITY OF NEW YORK

or mandating the performance or nonperformance of specific acts (*Galapo v City of New York*, 95 NY2d 568, 574 [internal quotation marks omitted]; see *Desmond v City of New York*, 88 NY2d 455, 464; *Fahey v A.O. Smith Corporation*, _____AD3d_____ [decided herewith]; *Link v City of New York*, 34 AD3d 757, 758; *Shelton v City of New York*, 256 AD2d 611, 612-613; *Von Ancken v City of New York*, 245 AD2d 286). Therefore, the City established its prima facie entitlement to judgment as a matter of law dismissing the cause of action pursuant to General Municipal Law § 205-a insofar as asserted against it and, in opposition, the plaintiff failed to raise a triable issue of fact.

Accordingly, the Supreme Court properly granted that branch of the City's motion which was for summary judgment dismissing the cause of action pursuant to General Municipal Law § 205-a insofar as asserted against it.

SKELOS, J.P., ANGIOLILLO, HALL and LOTT, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "Matthew G. Kiernan". The signature is written in a cursive, slightly slanted style.

Matthew G. Kiernan
Clerk of the Court