

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

D28996  
O/hu

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

Submitted - October 22, 2010

REINALDO E. RIVERA, J.P.  
CHERYL E. CHAMBERS  
LEONARD B. AUSTIN  
SANDRA L. SGROI, JJ.

---

2009-09125

DECISION & ORDER

Richard Saggio, et al., appellants, v Town of Islip,  
et al., defendants, Long Island Business and Technology  
Center, respondent.

(Index No. 19030/05)

---

Rovegno & Taylor, P.C., Great Neck, N.Y. (Robert B. Taylor of counsel), for  
appellants.

Thomas D. Hughes, New York, N.Y. (Richard C. Rubinstein and David D. Hess of  
counsel), for respondent.

In an action to recover damages for personal injuries, etc., the plaintiffs appeal, as  
limited by their brief, from so much of an order of the Supreme Court, Suffolk County (Baisley, Jr.,  
J.), dated June 29, 2009, as granted that branch of the motion of the defendant Long Island Business  
and Technology Center which was for summary judgment dismissing the complaint insofar as asserted  
against it.

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

The injured plaintiff allegedly fell after his right shoelace became caught in a wire  
protruding from the bottom of a fence which was owned by the defendant Long Island Business and  
Technology Center (hereinafter the defendant). The fence was located on a grassy ground and  
abutted crowded ball fields that the injured plaintiff was attempting to exit. The defendant established  
its entitlement to judgment as a matter of law by demonstrating that it did not create or have actual  
or constructive notice of the alleged defect which caused the injured plaintiff to fall (*see Gordon v*

November 16, 2010

SAGGIO v TOWN OF ISLIP

Page 1.

*American Museum of Natural History*, 67 NY2d 836; *Green v City of New York*, 34 AD3d 528, 529; *Crawford v AMF Bowling Ctrs., Inc.*, 18 AD3d 798, 799; *Paolucci v First Natl. Supermarket Co.*, 178 AD2d 636). In opposition, the plaintiffs failed to raise a triable issue of fact (see *Alvarez v Prospect Hosp.*, 68 NY2d 320).

Accordingly, the Supreme Court properly granted the defendant's motion for summary judgment dismissing the complaint insofar as asserted against it.

RIVERA, J.P., CHAMBERS, AUSTIN and SGROI, 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