

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

D29420  
O/kmb

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

Argued - November 30, 2010

REINALDO E. RIVERA, J.P.  
MARK C. DILLON  
DANIEL D. ANGIOLILLO  
LEONARD B. AUSTIN, JJ.

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2009-10330

DECISION & ORDER

Kevin Kostic, appellant, v Ascent Media Group, LLC,  
respondent, et al., defendants  
(and a third-party action).

(Index No. 9414/07)

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Lawrence M. Simon, Goshen, N.Y. (Charles Hymowitz of counsel), for appellant.

Lori D. Fishman, Tarrytown, N.Y., 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, Rockland County (Berliner, J.), dated September 29, 2009, as granted that branch of the motion of the defendant Ascent Media Group, LLC, 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 defendant Ascent Media Group, LLC (hereinafter the defendant), established its prima facie entitlement to judgment as a matter of law by submitting evidence demonstrating that it did not create or have actual or constructive notice of the icy condition in its parking lot which allegedly caused the plaintiff to fall (*see Crosthwaite v Acadia Realty Trust*, 62 AD3d 823, 824; *Wylie v Brooks/Eckerd Pharmacy*, 49 AD3d 533, 534; *Murphy v 136 N. Blvd. Assoc.*, 304 AD2d 540). General awareness that, at times, an icy condition developed in the parking lot during winter months was insufficient to constitute notice of the specific condition that allegedly caused the plaintiff to fall (*see Mauge v Barrow St. Ale House*, 70 AD3d 1016, 1017). In opposition, the plaintiff failed to raise a triable issue of fact (*see Alvarez v Prospect Hosp.*, 68 NY2d 320).

December 14, 2010

Page 1.

KOSTIC v ASCENT MEDIA GROUP, LLC

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

RIVERA, J.P., DILLON, ANGIOLILLO and AUSTIN, JJ., concur.

ENTER:

  
Matthew G. Kiernan  
Clerk of the Court