

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

D30053  
G/prt

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

Argued - January 13, 2011

ANITA R. FLORIO, J.P.  
THOMAS A. DICKERSON  
CHERYL E. CHAMBERS  
PLUMMER E. LOTT, JJ.

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2010-04034

DECISION & ORDER

Ioanna Karnikolas, respondent, v Marie E. Wengert,  
etc., appellant.

(Index No. 11624/08)

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Robert P. Tusa (Sweetbaum & Sweetbaum, Lake Success, N.Y. [Marshall D. Sweetbaum], of counsel), for appellant.

Sacco & Fillas, LLP, Whitestone, N.Y. (Larry I. Badash of counsel), for respondent.

In an action to recover damages for personal injuries, the defendant appeals from an order of the Supreme Court, Queens County (McDonald, J.), entered March 3, 2010, which denied her motion for summary judgment dismissing the complaint.

ORDERED that the order is affirmed, with costs.

The Supreme Court did not err in denying the defendant's motion for summary judgment dismissing the complaint. The defendant failed to establish her prima facie entitlement to judgment as a matter of law by demonstrating that she did not create the allegedly defective sidewalk condition, or negligently make repairs to the area of the sidewalk where the plaintiff fell (*see Serano v New York City Hous. Auth.*, 66 AD3d 867; *Nunez v City of New York*, 41 AD3d 677; *Immerman v City of New York*, 22 AD3d 726; *Berlinger v City of New York*, 289 AD2d 188).

FLORIO, J.P., DICKERSON, CHAMBERS and LOTT, JJ., concur.

ENTER:

  
Matthew G. Kiernan

Matthew G. Kiernan  
Clerk of the Court

February 15, 2011

KARNIKOLAS v WENGERT