

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

D31066
C/kmb

_____AD3d_____

Submitted - April 8, 2011

WILLIAM F. MASTRO, J.P.
ARIEL E. BELEN
CHERYL E. CHAMBERS
SHERI S. ROMAN, JJ.

2010-03676

DECISION & ORDER

Marilyn Dobies, et al., appellants, v Girl Scouts of
Westchester Putnam, Inc., respondent, et al., defendants.

(Index No. 5/08)

White Fleischer & Fino, LLP, New York, N.Y. (Paul A. Fino, Jr., of counsel), for
appellants.

Mead, Hecht, Conklin & Gallagher, LLP, Mamaroneck, N.Y. (Elizabeth M. Hecht 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, Putnam County (Nicolai, J.),
dated February 17, 2010, as granted that branch of the motion of the defendant Girl Scouts of
Westchester Putnam, Inc., 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.

“[T]he imposition of liability for a dangerous condition on property must be predicated
upon occupancy, ownership, control, or special use of the premises” (*James v Stark*, 183 AD2d 873,
873; *see Ellers v Horwitz Family Ltd. Partnership*, 36 AD3d 849; *Marrone v South Shore Props.*,
29 AD3d 961). Here, the defendant Girl Scouts of Westchester Putnam, Inc. (hereinafter the
defendant), established its prima facie entitlement to judgment as a matter of law by demonstrating
that it did not own, occupy, control, put to a special use, or have any right or obligation to maintain
the parking lot where the accident occurred (*see Alvarez v Prospect Hosp.*, 68 NY2d 320). In

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opposition, the plaintiffs failed to raise a triable issue of fact. 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.

MASTRO, J.P., BELEN, CHAMBERS and ROMAN, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court