

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

D33085
C/kmb

_____AD3d_____

Argued - November 7, 2011

PETER B. SKELOS, J.P.
RUTH C. BALKIN
RANDALL T. ENG
SANDRA L. SGROI, JJ.

2010-10333

DECISION & ORDER

Norma Rodriguez, plaintiff-respondent, v Town of Islip, et al., defendants-respondents, County of Suffolk, appellant.

(Index No. 18981/07)

Christine Malafi, County Attorney, Hauppauge, N.Y. (Christopher A. Jeffreys of counsel), for appellant.

In an action to recover damages for personal injuries, the defendant County of Suffolk appeals, as limited by its brief, from so much of an order of the Supreme Court, Suffolk County (Molia, J.), dated September 17, 2010, as denied its motion for summary judgment dismissing the complaint and all cross claims insofar as asserted against it.

ORDERED that the order is reversed insofar as appealed from, on the law, with costs, and the motion of the defendant County of Suffolk for summary judgment dismissing the complaint and all cross claims insofar as asserted against it is granted.

The defendant County of Suffolk established its prima facie entitlement to judgment as a matter of law by demonstrating that it did not have prior written notice of a defect on a sidewalk that allegedly caused the plaintiff to fall (*see* Suffolk County Charter § C8-2A; *Regan v Town of N. Hempstead*, 66 AD3d 863, 864; *Koehler v Incorporated Vil. of Lindenhurst*, 42 AD3d 438; *Lysohir v County of Suffolk*, 10 AD3d 638, 639). In opposition, the plaintiff failed to submit evidence sufficient to raise a triable issue of fact (*see Regan v Town of N. Hempstead*, 66 AD3d at 864; *Lysohir v County of Suffolk*, 10 AD3d at 639). Accordingly, the Supreme Court should have granted

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the County's motion for summary judgment dismissing the complaint and all cross claims insofar as asserted against it.

SKELOS, J.P., BALKIN, ENG and SGROI, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court