

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

D34708  
N/prt

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

Argued - February 10, 2012

RUTH C. BALKIN, J.P.  
ARIEL E. BELEN  
L. PRISCILLA HALL  
ROBERT J. MILLER, JJ.

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2011-01920

DECISION & ORDER

Barbara Maciejewska Sawicki, et al., appellants, v  
Conklin Realty Co., LLC, respondent.

(Index No. 4256/07)

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Bergman, Bergman, Goldberg & Lamonsoff, LLP, Mineola, N.Y. (Allen Goldberg, Julie T. Mark, and Brian Isaac of counsel), for appellants.

Lester Schwab Katz & Dwyer, LLP, New York, N.Y. (Harry Steinberg of counsel), for respondent.

In an action to recover damages for personal injuries, etc., the plaintiffs appeal from an order of the Supreme Court, Nassau County (Sher, J.), dated January 11, 2011, which granted the defendant's motion for summary judgment dismissing the complaint.

ORDERED that the order is affirmed, with costs.

The plaintiffs allege that the plaintiff Barbara Maciejewska Sawicki was injured as a result of stumbling on the plastic edging of a stairway landing of the apartment building where she lived, which was owned by the defendant. The defendant moved for summary judgment dismissing the complaint, relying upon, among other things, the plaintiffs' deposition testimony and photographs which the plaintiffs testified accurately depicted the condition of the plastic edging at the time of the accident. The defendant established, prima facie, its entitlement to judgment as a matter of law by demonstrating that the alleged defect, which did not have any of the characteristics of a trap or snare, was trivial and, therefore, not actionable (*see Trincere v County of Suffolk*, 90 NY2d 976; *Schenpanski v Promise Deli, Inc.*, 88 AD3d 982; *Milewski v Washington Mut., Inc.*, 88 AD3d 853; *Grosskopf v 8320 Parkway Towers Corp.*, 88 AD3d 765). In opposition, the plaintiffs

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failed to raise a triable issue of fact as to whether the alleged defect was trivial as a matter of law (*see Levy v Kung Sit Huie*, 54 AD3d 731). Accordingly, the Supreme Court properly granted the defendant's motion for summary judgment dismissing the complaint.

The plaintiffs' remaining contentions need not be reached in light of our determination.

BALKIN, J.P., BELEN, HALL and MILLER, JJ., concur.

ENTER:

A handwritten signature in black ink, appearing to read "Aprilanne Agostino". The signature is written in a cursive, flowing style.

Aprilanne Agostino  
Clerk of the Court