

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

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Argued - June 8, 2012

RUTH C. BALKIN, J.P.  
L. PRISCILLA HALL  
PLUMMER E. LOTT  
JEFFREY A. COHEN, JJ.

2011-07628

DECISION & ORDER

Veronica Musante, appellant, v Department of  
Education of City of New York, et al., respondents.

(Index No. 28070/07)

Friedman Khafif & Sanchez, LLP, Brooklyn, N.Y. (Emil J. Sanchez of counsel), for  
appellant.

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Pamela Seider Dolgow,  
Suzanne K. Colt, and Deborah Brenner of counsel), for respondents.

In an action to recover damages for personal injuries, the plaintiff appeals from a  
judgment of the Supreme Court, Kings County (F. Rivera, J.), entered June 20, 2011, which, upon  
a jury verdict on the issue of liability finding the defendants 50% at fault and the plaintiff 50% at  
fault in the happening of the incident, and upon an order of the same court dated June 10, 2011,  
granting the defendants' motion pursuant to CPLR 4404(a) to set aside the verdict and for judgment  
as a matter of law, is in favor of the defendants and against her, dismissing the complaint.

ORDERED that the judgment is affirmed, with costs.

To determine that a jury verdict is not supported by legally sufficient evidence, the  
court must conclude that there is "simply no valid line of reasoning and permissible inferences which  
could possibly lead rational [people] to the conclusion reached by the jury on the basis of the  
evidence presented" (*Cohen v Hallmark Cards*, 45 NY2d 493, 499). The evidence must be viewed  
in the light most favorable to the prevailing party (*see Hammond v Diaz*, 82 AD3d 839; *Dublis v  
Bosco*, 71 AD3d 817).

Based on the evidence presented at the trial, there was no valid line of reasoning and

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permissible inferences which could possibly have led the jury to rationally conclude that the defendants created or had actual or constructive notice of the alleged hazardous condition that caused the plaintiff to fall (*see Cohen v Hallmark Cards*, 45 NY2d 493). A general awareness that water might be tracked into a building when it rains is insufficient to impute to the defendants constructive notice of the particular dangerous condition (*see Piacquadio v Recine Realty Corp.*, 84 NY2d 967; *Orlov v BFP 245 Park Co., LLC*, 84 AD3d 764; *Perlongo v Park City 3 & 4 Apts., Inc.*, 31 AD3d 409; *Dubensky v 2900 Westchester Co., LLC*, 27 AD3d 514; *Yearwood v Cushman & Wakefield*, 294 AD2d 568; *Negron v St. Patrick's Nursing Home*, 248 AD2d 687). Accordingly, the Supreme Court properly granted the defendants' motion pursuant to CPLR 4404(a) to set aside the jury verdict and for judgment in their favor as a matter of law.

BALKIN, J.P., HALL, LOTT and COHEN, JJ., concur.

ENTER:

  
Aprilanne Agostino  
Clerk of the Court