

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

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____AD3d____

Argued - April 17, 2012

RUTH C. BALKIN, J.P.
JOHN M. LEVENTHAL
L. PRISCILLA HALL
JEFFREY A. COHEN, JJ.

2011-07004

DECISION & ORDER

Hesson Williams-Moore, respondent, v Blockbuster,
Inc., defendant, Starrett City, Inc., et al., appellants.

(Index No. 9894/08)

Brody, Benard & Branch, LLP, New York, N.Y. (Tanya M. Branch and Maryellen O'Brien of counsel), for appellants.

Rosato & Lucciola, P.C., New York, N.Y. (Paul A. Marber of counsel), for respondent.

In an action to recover damages for personal injuries, the defendants Starrett City, Inc., Starrett City Associates, L.P., and Grenadier Realty Corp. appeal from an order of the Supreme Court, Kings County (Vaughan, J.), dated June 1, 2011, which denied their motion for summary judgment dismissing the complaint insofar as asserted against them.

ORDERED that the order is affirmed, with costs.

The defendants Starrett City, Inc., Starrett City Associates, L.P., and Grenadier Realty Corp. (hereinafter collectively the Starrett defendants) failed to meet their burden of establishing, prima facie, that they did not create or have actual or constructive notice of the dangerous condition that allegedly caused the plaintiff's injuries (*see Sut v City Cinemas Corp.*, 71 AD3d 759; *see generally Alvarez v Prospect Hosp.*, 68 NY2d 320, 324). The Starrett defendants' failure to meet their burden required denial of their motion without regard to the sufficiency of the plaintiff's papers

August 8, 2012

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in opposition (*see Sut v City Cinemas Corp.*, 71 AD3d at 759; *Medina v La Fiura Dev. Corp.*, 69 AD3d 686, 686-687).

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

ENTER:

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

Aprilanne Agostino
Clerk of the Court