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This memorandum is uncorrected and subject to revision before
publication in the New York Reports.

4 No. 187 SSM 30
Randy J. Schaal, as Trustee &c.
on behalf of Nancy Montero and
Richard Montero, Jr.,
 Appellant,
 v.
City of Utica, et al.,
 Respondents,
et al.,
 Defendant.

 Submitted by Gustave J. Detraglia, Jr., for appellant.
 Submitted by Joseph P. Giruzzi, for respondent City of
Utica.

 Submitted by Brendan J. Reagan, for respondents 200
Genesee Street, Inc. and Radisson Hotel-Utica Center, Inc.

MEMORANDUM:

 The order of the Appellate Division should be affirmed,
with costs.

 The Appellate Division correctly determined that
plaintiff's speculative assertions failed to raise an issue of
fact with respect to defendant City of Utica's alleged creation

of a dangerous sidewalk condition. Similarly, plaintiff adduced no evidence in support of the theory that defendant hotel had a duty to maintain the public sidewalk adjoining its property because the hotel used the sidewalk for a special purpose (see generally Poirier v City of Schenectady, 85 NY2d 310, 315 [1995]). In light of the completion of discovery in an earlier action involving the same allegations and parties and plaintiff's failure to request additional discovery in this action, summary judgment was not prematurely granted (see Chemical Bank v PIC Motors Corp., 58 NY2d 1023, 1026 [1983]).

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On review of submissions pursuant to section 500.4 of the Rules, order affirmed, with costs, in a memorandum. Chief Judge Kaye and Judges Smith, Ciparick, Rosenblatt, Graffeo, Read and Smith concur.

Decided October 21, 2004