

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

D55547
L/htr

_____AD3d_____

Submitted - January 12, 2018

JOHN M. LEVENTHAL, J.P.
JEFFREY A. COHEN
JOSEPH J. MALTESE
BETSY BARROS, JJ.

2017-04788

DECISION & ORDER

Frantz Jeannot, respondent, v Autozone, Inc., et al.,
appellants.

(Index No. 150441/15)

Lester Schwab Katz & Dwyer, LLP, New York, NY (Paul M. Tarr of counsel), for
appellants.

Stefano A. Filippazzo, Brooklyn, NY (Louis A. Badolato of counsel), for respondent.

In an action to recover damages for personal injuries, the defendants appeal from an order of the Supreme Court, Richmond County (Kim Dollard, J.), dated April 7, 2017. The order denied the defendants' motion for summary judgment dismissing the complaint.

ORDERED that the order is reversed, on the law, with costs, and the defendants' motion for summary judgment dismissing the complaint is granted.

The plaintiff commenced this action to recover damages for personal injuries allegedly sustained by him when he slipped and fell on the sidewalk in front of a Staten Island store owned and operated by the defendants. The defendants moved for summary judgment dismissing the complaint. The Supreme Court denied the defendants' motion, and the defendants appeal.

The defendants established their prima facie entitlement to judgment as a matter of law by submitting evidence, including climatological data, demonstrating, prima facie, that a storm was in progress at the time of the accident (*see Dylan v CEJ Props., LLC*, 148 AD3d 1115, 1117; *Talamas v Metropolitan Transp. Auth.*, 120 AD3d 1333, 1334-1335; *Meyers v Big Six Towers, Inc.*, 85 AD3d 877, 877). The plaintiff failed to raise a triable issue of fact in opposition.

June 6, 2018


JEANNOT v AUTOZONE, INC.

Page 1.

Accordingly, the Supreme Court should have granted the defendants' motion for summary judgment dismissing the complaint.

LEVENTHAL, J.P., COHEN, MALTESE and BARROS, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court