At an IAS Trial Term, Part 75 of the Supreme Court of the State of New York, Kings County, at the Courthouse located at 360 Adams Street, Brooklyn, New York on the 22nd day of December 2025.

P R E S E N T: HON. ANNE J. SWERN, J.S.C.

MECCA CRAWFORD,

Plaintiff(s),

-against-

NEW YORK CITY HOUSING AUTHORITY,

Defendant(s).

DECISION & ORDER
Index No.: 521339/2023

Motion Seq.: 003

Return Date: 9/11/2025

Recitation of the following papers as required by CPLR 2219(a):

	NYSCEF Papers Numbered
Notice of Motion and Supporting Documents	44-52
Affirmation in Opposition and Supporting Documents	53
Reply Affirmation and Supporting Documents	55

Upon the foregoing papers, the decision and order of the Court is as follows:

This is an action for personal injuries sustained by plaintiff while a guest in her mother's apartment owned by defendant located at 466 Fountain Avenue, Apartment A, Brooklyn, New York. Plaintiff was injured when the apartment's bathroom floor buckled and collapsed.

Plaintiff has now moved this Court for an order per CPLR § 3212 granting summary judgment on the issue of liability and striking defendant's affirmative defenses of comparative fault and culpable conduct. The basis of the motion is that defendant had notice of the condition based on the history of work orders requesting repairs needed for the bathroom floor.

Defendant's witness testified that he was dispatched to the apartment concerning the bathroom floor on 5/12/2022, one month prior to the incident on 6/19/2022. He took pictures and submitted a work order. However, he did not know the priority that was attached to the work

order once he submitted it. There is no evidence that this work order was closed or that defendant attempted to repair the floor. Plaintiff testified that on the Friday before the incident, the "guy" came to talk with her mother about fixing the bathroom floor.

In opposition, defendant argued that the motion was procedurally defective because (1) plaintiff did not submit a Statement of Material Facts as required by 22 NYCRR § 202.8-g, and (2) did not attach the pleadings as exhibit but instead cited to the NYSCEF docket numbers.

Summary judgment may be granted only when no triable issue of fact exists (*Alvarez v Prospect Hospital*, 68 NY2d 320 [1986]). "A party moving for summary judgment must make a prima facie showing of entitlement to judgment as a matter of law, producing sufficient evidence to demonstrate the absence of any material issue of fact. However, a failure to demonstrate a *prima facie* entitlement to summary judgment motion, requires a denial of the motion regardless of the adequacy of the opposing papers" (*Ayotte v Gervasio*, 81 NY2d 1062, 1063 [1993], *citing Alvarez v Prospect Hospital,* 68 NY2d 324). "Once this showing has been made, the burden shifts to the nonmoving party to produce evidentiary proof in admissible form sufficient to establish the existence of material issues of fact that require a trial for resolution" (*Giuffrida v Citibank*, 100 NY2d 72, 81 [2003] and *Alvarez v. Prospect Hospital*, 68 NY2d 324).

The Court's only role upon a motion for summary judgment is to identify the existence of triable issues, and not to determine the merits of any such issues (*Vega v Restani Construction Corp.,* 18 NY3d 499, 505 [2012]) or the credibility of the movant's version of events (see *Xiang Fu He v Troon Management, Inc.,* 34 NY3d 167, 175 [2019] [internal citations omitted]). The Court must view the evidence in the light most favorable to the nonmoving party, affording them the benefit of all reasonable inferences that can be drawn from the evidence (*see Negri v Shop & Stop, Inc*., 65 NY2d 625, 626 [1985]). The motion should be denied where the facts are in

dispute, where different inferences may be drawn from the evidence, or where the credibility of the witnesses is in question (*see Cameron v City of Long Beach*, 297 AD2d 773, 774 [2d Dept. 2002]).

The motion is granted. Per 22 NYCRR § 202.8-g [e], the Court has the discretion to excuse the failure to submit a Statement of Material Facts as "may be just and appropriate." Here, in the interest of justice and judicial economy, the Court is resolving the motion on the merits rather than adjourning the motion for compliance with 22 NYCRR § 202.8-g. There is no prejudice to defendant because the motion is based on the deposition testimony of both parties. The cumulative testimony and the work orders establish as a matter of law that defendant had actual notice of the defective condition prior to the incident on 7/13/2021, 5/11/2022 and 5/12/2022.[1] (*Ayotte v Gervasio*, 81 NY2d 1062, 1063 [1993], *citing Alvarez v Prospect Hospital,* 68 NY2d 324). Defendant did not come forward with evidence in admissible form to defeat summary judgment (*Giuffrida v Citibank*, 100 NY2d 72, 81 [2003] and *Alvarez v. Prospect Hospital*, 68 NY2d 324).

The Court has considered the defendant's remaining arguments and finds same to be without merit.

Accordingly, it is hereby

ORDERED that plaintiff's motion for summary judgment per CPLR § 3212 on the issue of liability and notice is GRANTED, and it is further

ORDERED that defendant's first, second, and third affirmative defenses are dismissed, and it is further

[1] *See* work orders attached to defendant's Response to Plaintiff's Combined Demands (NYSCEF 52).

ORDERED that the Clerk of the Court shall enter judgment accordingly, and it is further

ORDERED that this action shall proceed to trial on damages only.

This constitutes the decision and order of the Court.

E N T E R:

Hon. Anne J. Swern, J.S.C.
Dated: 12/22/2025

For Clerks use only:

MG _____

MD _____

Motion seq. # _____