SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: **HON. ARLENE P. BLUTH** **PART** **14**

Justice

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AMANDA ASHLEY GENAO,

Plaintiff,

- v -

BRAUSE REALTY INC.,THE FORGE LIC, PURVES STREET OWNERS, LLC,PURVES DEVELOPMENT LLC, THOMPSON PURVES LLC,GOTHAM REAL ESTATE MANAGERS, LLC

Defendants.

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INDEX NO. 154937/2020

MOTION DATE 01/12/2026

MOTION SEQ. NO. 009 010

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 009) 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 206, 207, 210, 219

were read on this motion to/for JUDGMENT - SUMMARY.

The following e-filed documents, listed by NYSCEF document number (Motion 010) 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 208, 209, 211, 212, 213, 214, 215, 216, 217, 218, 221, 222, 223, 224

were read on this motion to/for JUDGMENT - SUMMARY.

Motion Sequence Numbers 009 and 010 are consolidated for disposition. Motion Sequence 009 was withdrawn (NYSCEF Doc. No. 219). Defendants Purves Street Owners LLC and Gotham Real Estate Managers, LLC ("Moving Defendants") motion for summary judgment is granted.

Background

This action concerns plaintiff's slip and fall in the lobby of her apartment building on the evening of July 22, 2018. At her deposition, plaintiff testified that it was raining very hard that day and she and her parents had been visiting her grandmother on Long Island (NYSCEF Doc. No. 182 at 27). Plaintiff lived with her parents at the building and her father dropped her off

(along with her mother) at the building to go find a parking space (*id*. at 28). Plaintiff testified that "I slipped and fell. I hit the back of my head. I hit my elbow, I hurt my back. When I fell, I blacked out and I don't even remember everything" (*id*. at 34-35). She admitted that she walked along a mat in the lobby and that she slipped when she stepped off of the mat (*id*. at 36). Plaintiff did not recall if she wiped off her feet before stepping off the mat (*id*. at 37). When asked what caused her to fall, plaintiff insisted that she did not know and it was "just very slippery" (*id*. at 38).

The doorman on the day of the accident was also deposed. He claimed that the building would put down mats when it rained as well as signs indicating a wet floor (NYSCEF Doc. No. 182 at 21).[1] The doorman recalled seeing plaintiff "walking into the building with her mother and her dog. When both were walking on the rain mat and right when they got up to about the front desk, [plaintiff] took two or three steps off the mat onto the – onto the ceramic tile and slipped" (*id*. at 27). He added that he did not see anyone else slip on the lobby floor that day (*id*. at 30). The doorman testified that the mats had a rubber bottom and the top soaked up water (*id*. at 32).

Moving Defendants seek summary judgment on the ground that there was no actual or constructive notice of a wet condition on the lobby floor. They emphasize that plaintiff did not see a wet condition on the floor prior to her accident and that the doorman did not see any such condition on the lobby floor. Moving Defendants contend that the accident happened because plaintiff walked in with wet shoes and stepped of the rain mat and fell.

They point to an affidavit (NYSCEF Doc. No. 186) from experts, meteorologists, who contend that there was a significant amount of water accumulated outside due to the rain that fell

[1] The issue of the wet floor signs is not dispositive as the videos do not show any such signs.

the day before, and the day of, the accident. Moving Defendants stress that they put down rain mats and it was plaintiff's decision to step off of the rain mat.

In opposition, plaintiff contends that there was no evidence presented as to when the area was last cleaned prior to the time of the accident. She insists that she demanded a deposition of a porter in connection with this issue but that Moving Defendants never produced a witness. Plaintiff adds that Moving Defendants created the condition by failing to clean, inspect and place mats at the location of the accident. She contends that the mats that were there did not soak up the water.

Plaintiff points to two affidavits submitted by her parents. Her mother, who was walking in front of her at the time of the fall, argues that there were 5-6 complaints about the need for more mats prior to the accident. She insists that the mats were saturated with water on the day of the accident and the area was not sufficiently dry. Plaintiff's father says there were "7-8" complaints about the need to place more mats in the lobby although he admits he was not present for the accident itself.

Plaintiff also includes an expert affirmation in order to show that there was no flood advisories immediately prior to the accident and that the conditions were largely dry on July 22.

In reply, Moving Defendants contend that the affirmations from plaintiff's parents should be disregarded as plaintiff failed to identify them as potential witnesses in a discovery demand. They argue that they met their duty to plaintiff by taking reasonable measures to protect the floor during the inclement weather.

Discussion

Before delving into the merits, the Court must address the procedural objections raised by plaintiff. First, plaintiff complains that she never received a copy of her deposition transcript and

so the Court should deny the motion. That claim is wholly without merit. Moving Defendants correctly observe that the deposition transcript was attached to a prior motion (NYSCEF Doc. No. 150) and uploaded in February 2025. In other words, plaintiff has had a long time to review the transcript and raise any objections. That she has only raised it in opposition to this motion is not a basis to deny the application.

The Court must also contend with the affirmations of plaintiffs' parents. The Court declines to consider these affirmations as these witnesses were previously undisclosed and raised for the first time in opposition to the instant motion (*Garcia v Good Home Realty, Inc.*, 67 AD3d 424, 425, 888 NYS2d 40 [1st Dept 2009] [disregarding affidavit from previously undisclosed witness]). Moving Defendants requested in a discovery demand that plaintiff identify witnesses and plaintiff only included "the named parties to this litigation" (NYSCEF Doc. No. 223). To upload affirmations from these individuals in opposition to a summary judgment motion is improper (*id.*).

Moreover, the content of the affirmations compels the Court to disregard them as they contain conclusory assertions clearly tailored to try to raise issues of fact to help their daughter's case. Both purported witnesses contend, without any back up documentation, that there were, in fact, numerous complaints raised about the need for more mats. No details were provided about when and in what form these issues were raised to the building. And the new claim about the saturation of the mats is also a clear attempt to raise an issue of fact.

Plaintiff's dissatisfaction, that she sent a letter demanding that the building produce a janitor to be deposed about the cleaning schedule, is not a basis to deny the instant motion. Plaintiff had ample opportunity to conduct discovery. This is a relatively straightforward slip and fall case that has been pending for more than five years. She had lots of time to notice a

deposition (or send a subpoena if necessary) and then make necessary motions if no one was produced. That plaintiff sent a mere letter is not sufficient to deny defendants' motion.

Turning to the merits, the Court grants the Moving Defendants' motion as they met their burden for summary judgment. "Defendants established prima facie their entitlement to judgment as a matter of law by demonstrating that at the time of plaintiff's accident it had been raining. . . for several hours, that they had placed a mat on the vestibule floor, and that they had neither actual nor constructive notice of the particular wet condition that allegedly caused plaintiff to slip. Defendants were under no obligation to cover the entire floor with mats and to continuously mop up all tracked-in water" (*Gonzalez-Jarrin v New York City Dept. of Educ.*, 50 AD3d 334, 335 [1st Dept 2008] [internal quotations and citations omitted]).

There is no dispute that Moving Defendants put down a long rain mat, as is evidenced by the two videos submitted in connection with this motion. And Moving Defendants' experts, as well as plaintiff's testimony, detailed that there was significant rain the day before and the day of the accident. That means there was significant precipitation outside, and Moving Defendants put down a rain mat to ameliorate any wet conditions.

And the key issue for this Court is that the video shows that, for some reason, plaintiff decided to walk off of the mat. In other words, plaintiff decided not to use the safety procedure employed by Moving Defendants; instead of staying on the provided safe path, plaintiff walked off the path, directly on a tile floor after just walking outside on wet ground. The decision to leave the mat and walk on the floor with wet shoes was the proximate cause of the accident and so the Court grants Moving Defendants' motion. As noted above, Moving Defendants did not have to cover up the entire floor and there is no admissible testimony that the mats were substandard or insufficient. Plus, there is no evidence as to what exactly caused plaintiff to fall.

That is, she did not testify that she observed a puddle or water accumulation in the lobby that caused her to fall. In fact, she was unable to identify the precise cause of her accident.

Summary

The fact is that there was a significant rainstorm immediately preceding plaintiff's accident. And Moving Defendants responded by placing rain mats, including a long mat than ran right from the door. Instead of utilizing that mat and the safe path it provided, plaintiff left that path and walked directly on the tile floor. The caselaw cited above did not require Moving Defendants to ensure that their entire floor was covered in mats. They only had to show that they took reasonable steps to ensure the safety of tenants and they did that here. Plaintiff did not raise a material issue of fact in opposition.

Accordingly, it is hereby

ORDERED that motion sequence 009 was withdrawn and it is further

ORDERED that defendants Purves Street Owners LLC and Gotham Real Estate Managers, LLC's motion (MS010) for summary judgment is granted, the case is severed and dismissed as against them, and the Clerk is directed to enter judgment accordingly along with costs and disbursements upon presentation of proper papers therefor; and it is further

ORDERED that the case shall proceed as to the remaining defendants (plaintiff got a default judgment as to certain defendants).

1/14/2026
DATE

ARLENE P. BLUTH, J.S.C.

CHECK ONE:		**CASE DISPOSED**		[X]	**NON-FINAL DISPOSITION**		
	[ ]	**GRANTED**	[ ] **DENIED**	[ ]	**GRANTED IN PART**	[X]	**OTHER**
APPLICATION:	[ ]	**SETTLE ORDER**		[ ]	**SUBMIT ORDER**		
CHECK IF APPROPRIATE:	[ ]	**INCLUDES TRANSFER/REASSIGN**		[ ]	**FIDUCIARY APPOINTMENT**	[ ]	**REFERENCE**