

Newman v Douglas Elliman Prop. Mgt.

2026 NY Slip Op 31429(U)

March 27, 2026

Supreme Court, New York County

Docket Number: Index No. 155030/2023

Judge: Leslie A. Stroth

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. LESLIE A. STROTH PART 12M

Justice

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INDEX NO. 155030/2023

KAREN NEWMAN,

MOTION DATE 05/09/2025

Plaintiff,

MOTION SEQ. NO. 001

- v -

DOUGLAS ELLIMAN PROPERTY MANAGEMENT,
NEWPORT EAST, INC.

DECISION + ORDER ON MOTION

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44

were read on this motion to/for JUDGMENT - SUMMARY

Plaintiff commenced this negligence action after allegedly falling on a wet floor in the lobby of her apartment building, owned by Newport East, Inc. and maintained by Douglas Ellman Property Management (collectively "Defendants"). Plaintiff states she witnessed an employee, Mr. Yousaf, mopping the floor of one side of the lobby, and when Plaintiff traversed the opposite side of the lobby that she thought was dry, she fell on the wet floor. Plaintiff claims that Defendants were negligent in creating the wet floor, and/or negligent in allowing the wet floor to exist without remedying it. Plaintiff also claims that Defendants were negligent in their hiring, training, and supervision of employee Mr. Yousaf.

Defendants move for summary judgment to dismiss Plaintiff's complaint pursuant to CPLR § 3212. Defendants argue that there is no direct evidence that Defendants created, or had actual or constructive notice of the wet floor where Plaintiff fell. Defendants also argue that even if the floor was wet at the time of her fall, Plaintiff was adequately warned about the wet floor by having witnessed Mr. Yousaf mopping the floor, and by the cone he put up to signify that he was

mopping there. Defendants also state that there is no evidence that Defendants failed to properly train or supervise Mr. Yousaf. Defendants state that the evidence of negligence presented requires “impermissible speculation” as to whether Defendants are liable (Defendants’ Motion, NYSCEF Doc. No. 33). For the reasons outlined below, Defendants’ motion is denied.

To prevail on a motion for summary judgment pursuant to CPLR § 3212, the movant must tender sufficient evidence to show the absence of any material issue of fact and the right to entitlement to judgment as a matter of law (*Alvarez v Prospect Hosp.*, 68 NY2d 320, 323 [1986]). Once the movant submits competent proof demonstrating that there is no substance to its opponent’s claims and no disputed issues of fact, the opponent, in turn, is required to “lay bare [its] proof and come forward with some admissible proof that would require a trial of the material questions of fact on which [its] claims rest” (*Ferber v Sterndent Corp.*, 51 NY2d 782, 783 [1980]). The party opposing a motion for summary judgment is entitled to all favorable inferences that can be drawn from the evidence submitted (*see Dauman Displays, Inc. v Masturzo*, 168 AD2d 204, 205 [1st Dept 1990]). In viewing the evidence in the light most favorable to the non-movant, including circumstantial evidence, the Court may not evaluate either parties’ credibility to determine whose version of the facts is true (*Gurfein Bros., Inc. v Hanover Ins. Co.*, 248 AD2d 227, 229 [1st Dept 1998] citing *Consolidated Edison Co. of New York v Jet Asphalt Corp.*, 132 AD2d 296, 299 [1st Dept 1987]).

Regarding the creation of the wet floor condition, Defendants argue that they did not create a dangerous condition because there is no direct evidence that Mr. Yousaf mopped the area where Plaintiff fell. Instead, Defendants state that the evidence shows Mr. Yousaf was mopping an area of the lobby that Plaintiff avoided, and that Mr. Yousaf’s mopping of this area does not mean he mopped the area in which Plaintiff fell. Defendants further argue that even if

the floor was wet from mopping, Plaintiff's deposition indicates that she saw Mr. Yousaf actively mopping and the cone set by Mr. Yousaf to alert that he was mopping, yet chose to proceed anyway.

Plaintiff argues that Defendants have impermissibly pointed to holes in evidence to argue the absence of issues of material fact, and that this is not the standard for a party moving for summary judgment. Rather, Plaintiff notes that the evidence does not conclusively establish that Defendants did not create the wet floor condition. Plaintiff states that Mr. Yousaf does not deny mopping the area where Plaintiff fell, and that Defendants failed to prove they provided adequate warning to Plaintiff of the wet floor.

The Court finds that the evidence viewed in the light most favorable to Plaintiff, while circumstantial, creates an issue of material fact that warrants denial of Defendants' motion. The burden is on Defendants to conclusively establish that they did not negligently create the wet floor condition, and Defendants fail to meet this burden. While Mr. Yousaf was mopping the opposite side of the floor when Plaintiff fell, there is a question of fact as to whether Mr. Yousaf had previously mopped the area at issue and failed to warn that it was wet. This is because Plaintiff's description of the substance on the floor at the time of her fall—described as “soapy, dirty, and wet” (Plaintiff's Opposition, NYSCEF Doc. No. 43 at 9)—is consistent with mopping solution, and Mr. Yousaf cannot recall, but does not deny, whether he mopped the site where Plaintiff fell. Moreover, there are no records of Mr. Yousaf's work to confirm or deny whether the fall site was previously mopped. In light of the foregoing, this evidence does not conclusively establish that the Defendants did not create the wet floor condition.

Regarding the assertion that Defendants adequately warned Plaintiff about the wet floor condition, Defendants argue that Plaintiff appraised Mr. Yousaf actively mopping, and noticed

the cone in the area where he was mopping. Plaintiff does not dispute this in her deposition. She argues, however, that she walked over an area thinking it was dry because there was no mop and there was no cone, yet slipped on a wet floor anyway. In her deposition, Plaintiff stated she walked in such a way “to stay away from [Mr. Yousaf],” and that when she slipped on water, she “was [not] expecting there to be water on that side because [Mr. Yousaf] was working on the opposite side” (Plaintiff’s Deposition, NYSCEF Doc. No. 39 at 16).

Defendants state that “[b]oth parties agree that the lobby area [at the site of the accident] is very large. Plaintiff called it ‘huge.’ [] The Defendant estimated the Lobby to be at least ‘30 feet’ and very large” (NYSCEF Doc. No. 33 at 8 [citations omitted]). The Court therefore finds an issue of material fact as to whether Plaintiff was adequately warned. The cone and Plaintiff’s appraisal of the mopping of one section of the lobby does not give adequate warning of the rest of the “very large” lobby, especially given that Plaintiff exercised caution to avoid Mr. Yousaf’s work. The evidence does not conclusively establish that Plaintiff was adequately warned of the wet floor, as the fact that the opposite side of the lobby was being actively mopped and had a cone does not conclusively establish that Plaintiff was adequately warned about the wet conditions on the other side of a large lobby, especially when Plaintiff actively avoided the dangerous area.

Regarding the negligent hiring, training, and supervision of Mr. Yousaf, Defendants argue that Mr. Yousaf testified that he was trained to spot dirty parts of the floor, put up a wet floor sign, mop with a damp mop, and wait for the area to dry before moving onto another area that needed cleaning (NYSCEF Doc. No. 33 at 9). Plaintiff counters that Mr. Yousaf’s testimony also states he had no training as a porter, had no supervision, and “relied solely on looking at the tiles to determine whether the floor was dry” (NYSCEF Doc. No. 43 at 16).

The foregoing creates an issue of material fact as to whether Mr. Yousaf was negligently hired, trained, and supervised. Mr. Yousaf’s testimony states that the building does not have a system to track down when the lobby is mopped, and that when he does mop the lobby he does not have a set schedule, but he mops when the floor is dirty. Yet in Mr. Yousaf’s testimony, he stated that while he did not receive training as a porter, he was shown how to do the job (Mr. Yousaf’s testimony, NYSCEF Doc. No. 41). This is not enough to conclusively establish that Mr. Yousaf was properly trained and supervised to negate Plaintiff’s claims of negligence.


In light of the foregoing, Defendants’ motion for summary judgment is denied in its entirety, because Defendants fail to conclusively establish that no issues of material fact persist.

Accordingly, it is hereby

ORDERED that Defendants Douglas Ellman Property Management and Newport East, Inc., is denied.

The foregoing constitutes the decision and order of the Court.

3/27/2026
DATE


LESLIE A. STROTH, J.S.C.

CHECK ONE: CASE DISPOSED DENIED NON-FINAL DISPOSITION

APPLICATION: GRANTED GRANTED IN PART OTHER

CHECK IF APPROPRIATE: SETTLE ORDER SUBMIT ORDER

INCLUDES TRANSFER/REASSIGN FIDUCIARY APPOINTMENT REFERENCE