

Vega v LaGuardia Airport
2026 NY Slip Op 31967(U)
May 7, 2026
Supreme Court, New York County
Docket Number: Index No. 150844/2020
Judge: Hasa A. Kingo
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**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. HASA A. KINGO PART 65M

Justice

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MONICA VEGA,

Plaintiff,

- v -

LAGUARDIA AIRPORT, PORT AUTHORITY OF NEW
YORK AND NEW JERSEY, UNITED AIR LINES, INC

Defendant.

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INDEX NO. 150844/2020

MOTION DATE 05/05/2026

MOTION SEQ. NO. 006

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 006) 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103

were read on this motion for SUMMARY JUDGMENT.

Defendant Port Authority of New York and New Jersey (“Port Authority”) moves, unopposed and pursuant to CPLR § 3212, for summary judgment dismissing the complaint and all cross-claims asserted against it. Port Authority contends that it neither maintained nor controlled the location where plaintiff Monica Vega (“plaintiff”) allegedly fell, and, in any event, did not create or have actual or constructive notice of the alleged icy condition. The motion is unopposed.

Upon the papers submitted, the motion is granted.

BACKGROUND AND PROCEDURAL HISTORY

Plaintiff alleges that, on February 9, 2019, while working at LaGuardia Airport for PrimeFlight Aviation, she slipped and fell on ice near a dumpster in the area of Terminal B, Gate BR11. Plaintiff testified that she was an overnight supervisor whose duties included supervising aircraft cabin-cleaning crews. At the end of her shift, she drove a PrimeFlight vehicle containing garbage bags to a dumpster near Terminal B, exited the vehicle, disposed of the bags, and allegedly slipped on clear ice while walking near the vehicle and dumpster area.

Plaintiff commenced this action against LaGuardia Airport, Port Authority, and United Air Lines, Inc., alleging negligence, unsafe premises, and related claims. Port Authority answered and denied liability. United Air Lines, Inc. previously obtained summary judgment dismissing the claims against it. Plaintiff filed the note of issue on February 10, 2026, and Port Authority timely moved for summary judgment.

In support of its motion, Port Authority submits, among other things, deposition testimony, pleadings, plaintiff’s bill of particulars, photographs, and the expert meteorological analysis of Mark L. Kramer. No opposition was submitted.

ARGUMENT

Port Authority advances two principal arguments. First, Port Authority argues that it did not operate, maintain, or control the area where plaintiff allegedly fell. According to Port Authority, LaGuardia Airport is owned by the City of New York and leased to Port Authority, but portions of the airport, including portions of Terminal B, were operated and maintained by other entities. Port Authority relies on the testimony of Michael Smith, its principal property representative, who testified that LaGuardia Gateway Partners, a separate entity from Port Authority, was responsible for the relevant Terminal B area if the accident occurred outside the gate area described by plaintiff.

Second, Port Authority argues that it did not create the alleged icy condition and had no actual or constructive notice of it. Port Authority notes that plaintiff did not see the ice before she fell, that there were no complaints concerning icy conditions in the area, and that its meteorological expert opines that no snow, sleet, freezing rain, or freezing drizzle fell in the days before the incident. Port Authority further contends that temperatures had remained above freezing for days before the incident and that any alleged ice could only have formed within hours of plaintiff's fall, after temperatures dropped below freezing shortly before the accident.

DISCUSSION

Although the motion is unopposed, summary judgment is not granted automatically. The movant must still establish, through admissible evidence, its prima facie entitlement to judgment as a matter of law (*Alvarez v Prospect Hosp.*, 68 NY2d 320, 324 [1986]; *Zuckerman v City of New York*, 49 NY2d 557, 562 [1980]). Only after that showing is made does the burden shift to the opposing party to demonstrate the existence of a triable issue of fact (*Zuckerman*, 49 NY2d at 562). Mere conclusions, speculation, or unsubstantiated allegations are insufficient to defeat summary judgment (*id.*).

To establish negligence, a plaintiff must show that the defendant owed a duty of care, breached that duty, and that the breach was a proximate cause of the injury. The scope and existence of a duty are questions of law for the court (*Palka v Servicemaster Mgt. Servs. Corp.*, 83 NY2d 579 [1994]). In premises-liability cases involving snow or ice, a defendant may be held liable only where it created the dangerous condition or had actual or constructive notice of the condition and a reasonable opportunity to remedy it (*Gordon v American Museum of Natural History*, 67 NY2d 836 [1986]; *Piacquadio v Recine Realty Corp.*, 84 NY2d 967 [1994]).

Here, Port Authority has made a prima facie showing that it did not maintain or control the precise area where plaintiff alleges she fell. The submitted evidence reflects that plaintiff's alleged fall occurred near a dumpster in the Terminal B, Gate BR11 area. Port Authority's witness testified that LaGuardia Gateway Partners, not Port Authority, was the terminal operator responsible for the relevant Terminal B area, and that LaGuardia Gateway Partners was a separate entity from Port Authority. This proof is sufficient, in the absence of opposition, to establish that Port Authority did not owe plaintiff a premises-maintenance duty with respect to the specific location at issue.

Even assuming, *arguendo*, that Port Authority owed some duty of care, Port Authority has also established that it neither created nor had actual or constructive notice of the alleged icy condition. Plaintiff testified that she did not see the ice before she fell. The record contains no evidence of prior complaints about ice near the dumpster, no evidence that Port Authority performed snow or ice removal in a manner that created or exacerbated the condition, and no evidence that the alleged ice was visible and apparent for a sufficient period before plaintiff's fall to permit discovery and remediation.

Constructive notice requires proof that the defect was visible and apparent and existed for a sufficient length of time before the accident to permit the defendant to discover and remedy it (*Gordon*, 67 NY2d at 837). A general awareness that snow or ice may exist during winter weather is not enough; the law requires notice of the particular condition that caused the fall (*Piacquadio*, 84 NY2d at 967-969; *Bombino-Munroe v Church of St. Bernard*, 163 AD3d 616, 618 [2d Dept 2018]). This principle is especially important in cases involving freezing conditions, precipitation, and temperature fluctuations, where a transient icy condition may form quickly and without affording a property owner a reasonable opportunity to respond.

Port Authority's meteorological proof further supports dismissal. Its expert, Mark L. Kramer, opined, based on certified weather records, that no snow, sleet, freezing rain, or freezing drizzle fell from February 1 through February 9, 2019 before the incident, that temperatures had been above freezing for days, and that roadway surfaces had ample time to dry after earlier rain because of temperatures in the 40s and 50s, low humidity, partly sunny skies, and sustained winds with strong gusts. He further opined that, even crediting plaintiff's account, any patch of ice would have formed only within hours of the incident, after temperatures dropped below freezing overnight.

That evidence negates constructive notice. Courts have repeatedly held that where ice forms shortly before an accident, or where weather conditions are ongoing or fluctuating, a defendant is not chargeable with constructive notice absent proof that the condition existed long enough to be discovered and remedied (*see Baumgartner v Prudential Ins. Co. of Am.*, 251 AD2d 358 [2d Dept 1998]; *Zima v North Colonie Cent. Sch. Dist.*, 225 AD2d 993 [3d Dept 1996]; *Boyar v New York City Tr. Auth.*, 10 AD3d 625 [2d Dept 2004]). The record here contains no proof that the alleged ice existed for a sufficient period before plaintiff's fall. Nor is there evidence that Port Authority was alerted to the condition or that any inspection would have revealed it in time to prevent the accident.

Plaintiff's bill of particulars alleges that Port Authority failed to inspect, failed to remove ice, failed to warn, allowed a dangerous condition to exist, created a trap-like condition, and launched a force or instrumentality of harm. However, allegations in a pleading or bill of particulars do not substitute for evidence. On this record, there is no proof that Port Authority created the condition, had notice of it, assumed and displaced another entity's duty to maintain the area, or otherwise engaged in conduct that launched a force or instrumentality of harm. The uncontroverted evidence establishes the opposite.

Accordingly, Port Authority has demonstrated its prima facie entitlement to judgment as a matter of law. Because no opposition was submitted, no triable issue of fact has been raised.

Accordingly, it is hereby

ORDERED that the motion of defendant Port Authority of New York and New Jersey for summary judgment pursuant to CPLR § 3212 is granted in its entirety; and it is further

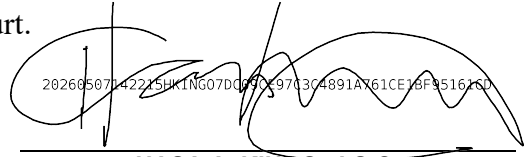
ORDERED that the complaint is dismissed as against defendant Port Authority of New York and New Jersey; and it is further

ORDERED that all cross-claims asserted against defendant Port Authority of New York and New Jersey are dismissed; and it is further

ORDERED that defendant Port Authority of New York and New Jersey shall serve a copy of this decision and order with notice of entry upon all parties and upon the Clerk of the Court within twenty days of entry; and it is further

ORDERED that, upon service of this decision and order with notice of entry, the Clerk of the Court shall enter judgment dismissing the complaint and any cross-claims as against defendant Port Authority of New York and New Jersey.

This constitutes the decision and order of the court.


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HASA A. KINGO, J.S.C.

5/7/2026
DATE

CHECK ONE:	<input checked="" type="checkbox"/>	CASE DISPOSED	<input type="checkbox"/>	NON-FINAL DISPOSITION
	<input checked="" type="checkbox"/>	GRANTED	<input type="checkbox"/> DENIED	<input type="checkbox"/> GRANTED IN PART
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER		<input type="checkbox"/> OTHER
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	FIDUCIARY APPOINTMENT
			<input type="checkbox"/>	REFERENCE