

APPELLATE DIVISION OF THE SUPREME COURT OF THE STATE OF NEW YORK, FIRST DEPARTMENT

Jones v. River Park Residences, L.P.

2025 N.Y. Slip Op. 06813 (App. Div. 1st Dep't 2025) · No. Index No. 26441/18; Appeal No. 5322; Case No. 2024-04304 · Decided December 9, 2025

SUMMARY

The Appellate Division, First Department, reversed an order granting defendants summary judgment in a premises-liability action involving a bathtub fall allegedly caused by a dripping faucet. The court held that plaintiff's inability to identify the precise cause of her fall did not require dismissal, and that issues remained regarding the faucet's condition and defendants' notice.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, First Department
WRITING FOR THE COURT	Webber, J.P.; Scarpulla, J.; Rodriguez, J.; Higgitt, J.; Chan, J.
JURISDICTION	New York Supreme Court, Appellate Division, First Department
DECIDED	December 9, 2025
DOCKET	Index No. 26441/18; Appeal No. 5322; Case No. 2024-04304
DISPOSITION	reversed
PROCEDURAL POSTURE	Plaintiff appealed from an order granting defendants' motion for summary judgment dismissing the complaint.
STANDARD OF REVIEW	On appeal from an order granting summary judgment, the court reviewed whether defendants made a prima facie showing of entitlement to judgment as a matter of law and whether plaintiff raised a triable issue of fact.
PRECEDENTIAL VALUE	published
PARTIES	Kashauna Jones v. River Park Residences, L.P., et al.

TOPICS

premises liability

negligence

summary judgment

standard of review

appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether plaintiff's inability to identify the precise cause of her fall warranted summary judgment dismissing her premises-liability complaint.
2. Whether plaintiff's affidavit stating that she observed water in the bathtub after regaining consciousness created a feigned issue of fact by allegedly contradicting her deposition testimony.
3. Whether defendants established prima facie that they lacked actual or constructive notice of the leaking faucet.
4. Whether the alleged condition was open and obvious and therefore defeated plaintiff's premises-liability claim.

HOLDINGS

1. Plaintiff's inability to identify the cause of her fall did not warrant dismissal because, given her testimony that she was unconscious after the fall, a jury could reasonably infer that she slipped in the bathtub because of the dripping faucet.
2. Plaintiff's affidavit stating that she noticed water in the tub after regaining consciousness did not create a feigned issue of fact.
3. Defendants failed to make a prima facie showing that they lacked notice of the leaking faucet, and plaintiff independently raised an issue of fact concerning notice.
4. The open-and-obvious argument was inapposite because plaintiff asserted a claim based on defendants' duty to maintain the premises in a reasonably safe condition, not a failure-to-warn claim.

KEY QUOTATIONS

*“'[E]ven if a hazard qualifies as 'open and obvious' as a matter of law, that characteristic merely eliminates the property owner's duty to warn of the hazard but does not eliminate the broader duty to maintain the premises in a reasonably safe condition'” ([*1])*

FACTUAL BACKGROUND

Plaintiff fell in a bathtub and testified that she was unconscious after the fall and could not recall slipping. She testified that the bathtub faucet had repeatedly leaked, including after building management attempted repairs and again approximately two weeks before the accident. After regaining consciousness, plaintiff observed water in the tub; plaintiff and her fiancé also testified that they had orally complained multiple times about the leaking faucet.

PROCEDURAL HISTORY

Supreme Court, Bronx County, granted defendants' motion for summary judgment and dismissed the complaint in an order entered on or about July 3, 2024. The Appellate Division unanimously reversed on the law and denied the motion.

DISPOSITION

reversed

REMAND INSTRUCTIONS

The order granting summary judgment was reversed and defendants' motion for summary judgment was denied.

CASES CITED

- Matos v Azure Holding II, L.P., 181 AD3d 406, 406 [1st Dept 2020]
- Muco v Board of Educ. of the City of N.Y., 203 AD3d 610, 611 [1st Dept 2022]
- Villegas v East 191 St. Hous. Dev. Fund Corp., 233 AD3d 636, 637 [1st Dept 2024]
- Westbrook v WR Activities-Cabrera Mkts., 5 AD3d 69, 70 [1st Dept 2004]

OPINION

PER CURIAM.

Jones v River Park Residences, L.P. (2025 NY Slip Op 06813) Jones v River Park Residences, L.P. 2025 NY Slip Op 06813 Decided on December 09, 2025 Appellate Division, First Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This opinion is uncorrected and subject to revision before publication in the Official Reports.

Decided and Entered: December 09, 2025 Before: Webber, J.P., Scarpulla, Rodriguez, Higgitt, Chan, JJ. Index No. 26441/18|Appeal No. 5322|Case No. 2024-04304| [*1]Kashauna Jones, Plaintiff-Appellant, v River Park Residences, L.P., et al., Defendants-Respondents. Rubin Law, PLLC, New York (Denise A. Rubin of counsel), for appellant. Chartwell Law, New York (Rachel Smith of counsel), for respondents.

Order, Supreme Court, Bronx County (Wilma Guzman, J.), entered on or about July 3, 2024, which granted defendants' motion for summary judgment dismissing the complaint, unanimously reversed, on the law, without costs, and the motion denied. Plaintiff's inability to identify the cause of her fall does not warrant dismissal of the complaint, considering that she testified that she was unconscious after her fall and had no recollection of slipping.

A jury could reasonably infer that plaintiff slipped and fell in the bathtub because of a dripping faucet. Plaintiff testified that the faucet had been leaking, even while it was off and after the building management's repeated attempts to fix it, and that this problem had been recurring since renovations began in 2012, including two weeks before the accident (see Matos v Azure Holding II, L.P., 181 AD3d 406, 406 [1st Dept 2020]).

Plaintiff's affidavit in opposition to the motion, in which she stated that she noticed water in the tub after she regained consciousness, did not create a feigned issue of fact, because, despite

defendants' argument that this contradicted her deposition testimony, they never asked her at her deposition whether she was wet upon awakening (see *Muco v Board of Educ. of the City of N.Y.*, 203 AD3d 610, 611 [1st Dept 2022]).

Defendants failed to make a prima facie showing that they did not have notice of the leaking faucet (see *Villegas v East 191 St. Hous. Dev. Fund Corp.*, 233 AD3d 636, 637 [1st Dept 2024]). Defendants' showing that there were no work orders or complaints in plaintiff's file regarding the dripping faucet is not dispositive on the issue of notice. Defendants' superintendent did not address plaintiff's and her fiancé's testimony that they orally complained many times about the leaking faucet.

Further, defendants' maintenance manager testified that he did not search for any information on plaintiff's apartment. In any event, plaintiff raised an issue of fact through her testimony that her bathtub faucet was repaired two weeks prior to the accident but continued leaking thereafter. Defendants' argument that the condition was open and obvious and not inherently dangerous is inapposite. "[E]ven if a hazard qualifies as 'open and obvious' as a matter of law, that characteristic merely eliminates the property owner's duty to warn of the hazard but does not eliminate the broader duty to maintain the premises in a reasonably safe condition" (*Westbrook v WR Activities-Cabrera Mkts.*, 5 AD3d 69, 70 [1st Dept 2004]).

Plaintiff has not asserted a claim of failure to warn. THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.
ENTERED: December 9, 2025

PER CURIAM.

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Defendants failed to make a prima facie showing that they did not have notice of the leaking faucet (see *Villegas v East 191 St. Hous. Dev. Fund Corp.*, 233 AD3d 636, 637 [1st Dept 2024]). Defendants' showing that there were no work orders or complaints in plaintiff's file regarding the dripping faucet is not dispositive on the issue of notice. Defendants' superintendent did not address plaintiff's and her fiancé's testimony that they orally complained many times about the leaking faucet.

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