

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
SECOND JUDICIAL DEPARTMENT

Mosca v. Lalezarian Properties, LLC

2026 NY Slip Op 02643 (2d Dep't 2026) · No. 2021-04966 · Decided April 29, 2026

SUMMARY

The New York Appellate Division, Second Department, affirmed an order granting Lalezarian Properties, LLC leave to reargue and, upon reargument, summary judgment dismissing the plaintiff’s personal-injury claims against it. The court held that Lalezarian established that it did not own, manage, operate, control, or maintain the property where the plaintiff slipped on black ice, and the plaintiff failed to raise a triable issue of fact.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Valerie Brathwaite Nelson, J.P.; William G. Ford, J.; Lillian Wan, J.; Laurence L. Love, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Department
DECIDED	April 29, 2026
DOCKET	2021-04966
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiff appealed from an order granting Lalezarian Properties, LLC leave to reargue its prior summary judgment motion and, upon reargument, granting summary judgment dismissing the amended complaint against it.
STANDARD OF REVIEW	A motion for reargument is reviewed under the prior court's sound discretion and may be granted when the court overlooked or misapprehended facts or law or otherwise mistakenly reached its earlier decision. Summary judgment is proper where the movant establishes entitlement to judgment as a matter of law and the opponent fails to raise a triable issue of fact.
PRECEDENTIAL VALUE	published

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QUESTIONS PRESENTED

1. Whether the Supreme Court properly granted Lalezarian leave to reargue its prior summary judgment motion.
2. Whether Lalezarian was entitled to summary judgment dismissing the amended complaint because it did not own the property where Mosca's accident occurred.

HOLDINGS

1. The Supreme Court properly granted Lalezarian leave to reargue because reargument may be granted when the prior court overlooked or misapprehended facts or law or otherwise mistakenly reached its earlier decision.
2. Lalezarian was entitled to summary judgment dismissing the amended complaint against it because it established that it did not own the property where the accident occurred, and Mosca failed to raise a triable issue of fact.

KEY QUOTATIONS

“Motions for reargument are addressed to the sound discretion of the court which decided the prior motion and may be granted upon a showing that the court overlooked or misapprehended the facts or law or for some other reason mistakenly arrived at its earlier decision” (at 1)

“As a general rule, liability for a dangerous condition on real property must be predicated upon ownership, occupancy, control, or special use of the property” (at 2)

“Where none of these factors are present, a party cannot be held liable for injuries caused by the allegedly defective condition” (at 2)

FACTUAL BACKGROUND

In January 2016, Carmen Mosca, a security guard, allegedly slipped on black ice in an underground parking garage where she was working. She sued, among others, Lalezarian Properties, LLC, alleging that it owned the building complex. Lalezarian submitted a deed identifying Nassau County Industrial Development Agency as the property owner and an affidavit stating that Lalezarian did not own, manage, operate, control, or maintain the property. Mosca failed to raise a triable issue of fact in opposition.

PROCEDURAL HISTORY

Mosca commenced a personal injury action in December 2016. Lalezarian moved for summary judgment in August 2019, asserting that it did not own, manage, maintain, operate, or control the accident property; the Supreme Court denied that branch of the motion without prejudice to renewal after discovery. Lalezarian moved for leave to reargue in October 2020, and the Supreme Court granted reargument and summary judgment in its favor in an order dated June 29, 2021. The Appellate Division affirmed insofar as appealed from.

DISPOSITION

affirmed

CASES CITED

- Kinard v. New York City Tr. Auth., 233 AD3d 665, 666
- Hallett v. City of New York, 219 AD3d 809, 810
- Misa v. Town of Brookhaven, 212 AD3d 804, 805-806
- Deutsch v. Green Hills [USA], LLC, 202 AD3d 909, 911
- Kennedy v. Hennessey, 211 AD3d 833, 833

OPINION

Mosca v. Lalezarian Props., LLC 2026 NY Slip Op 02643

PER CURIAM.

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2026 NY Slip Op 02643

April 29, 2026

Appellate Division, Second Department

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This decision is uncorrected and subject to revision before publication in the Official Reports.

Carmen Mosca, appellant,

v

Lalezarian Properties, LLC, respondent, et al., defendant.

Supreme Court of the State of New York, Appellate Division, Second Judicial Department

Decided on April 29, 2026

2021-04966, (Index No. 715001/16)

Valerie Brathwaite Nelson, J.P.

William G. Ford

Lillian Wan

Laurence L. Love, JJ.

Sacco & Fillas, LLP, Bayside, NY (Richard Schirmer of counsel), for appellant.

Cozen O'Connor, New York, NY (Amanda L. Nelson of counsel), for respondent.

[*1]

DECISION & ORDER

In an action to recover damages for personal injuries, the

plaintiff appeals from an order of the Supreme Court, Queens County (Carmen R. Velasquez, J.), dated June 29, 2021. The order, insofar as appealed from, granted that branch of the motion of the defendant Lalezarian Properties, LLC, which was for leave to reargue that branch of its prior motion which was for summary judgment dismissing the amended complaint insofar as asserted against it, which had been denied in an order of the same court dated March 13, 2020, and, upon reargument, in effect, vacated so much of the order dated March 13, 2020, as denied that branch of that defendant's prior motion, and thereupon, granted that branch of that defendant's prior motion.

ORDERED that the order dated June 29, 2021, is affirmed insofar as appealed from, with costs.

In January 2016, the plaintiff, who was employed as a security guard, allegedly was injured when she slipped on "black ice" in an underground parking garage where she was working. The plaintiff commenced this personal injury action in December 2016 against, among others, the defendant Lalezarian Properties, LLC (hereinafter Lalezarian), the alleged property owner of the building complex.

In August 2019, Lalezarian moved, among other things, for summary judgment dismissing the amended complaint insofar as asserted against it, arguing, inter alia, that it did not own, manage, maintain, operate, or control the property where the plaintiff's accident occurred. In support of its motion, Lalezarian submitted a deed to the property indicating that it was owned by Nassau County Industrial Development Agency, and an affidavit of Lalezarian's authorized agent indicating that Lalezarian did not own, manage, operate, control, or maintain the property. The plaintiff opposed the motion. In an order dated March 13, 2020, the Supreme Court, among other things, denied that branch of Lalezarian's motion without prejudice to renew upon the completion of discovery.

In October 2020, Lalezarian moved, inter alia, for leave to reargue that branch of its prior motion which was for summary judgment dismissing the amended complaint insofar as asserted against it, arguing that the Supreme Court overlooked a material issue of fact and misapprehended the law with respect to, among other things, Lalezarian's alleged ownership of the [2] property.

In an order dated June 29, 2021, the Supreme Court, inter alia, granted Lalezarian leave to reargue and, upon reargument, in effect, vacated so much of the order dated March 13, 2020, as denied that branch of its prior motion which was for summary judgment dismissing the amended complaint insofar as asserted against it, and thereupon, granted that branch of the prior motion. The court determined, among other things, that there was no evidence that Lalezarian owned the property where the plaintiff's accident occurred. The plaintiff appeals.

"Motions for reargument are addressed to the sound discretion of the court which decided the prior motion and may be granted upon a showing that the court overlooked or misapprehended the facts or law or for some other reason mistakenly arrived at its earlier decision" (*Kinard v New York City Tr. Auth.*, 233 AD3d 665, 666 [internal quotation marks omitted]; *see* *Hallett v City of New York*, 219 AD3d 809, 810). "As a general rule, liability for a dangerous condition on real property must be predicated upon ownership, occupancy, control, or special use of the property" (*Misa v Town of Brookhaven*, 212 AD3d 804, 805-806; *see* *Deutsch v Green Hills [USA], LLC*,

202 AD3d 909, 911). "Where none of these factors are present, a party cannot be held liable for injuries caused by the allegedly defective condition" (*Deutsch v Green Hills [USA], LLC*, 202 AD3d at 911 [internal quotation marks omitted]; *see Kennedy v Hennessey*, 211 AD3d 833, 833).

Here, Lalezarian established its prima facie entitlement to judgment as a matter of law dismissing the amended complaint insofar as asserted against it. In this regard, Lalezarian established that it did not own the property where the accident occurred (*see Misa v Town of Brookhaven*, 212 AD3d at 805-806; *Deutsch v Green Hills [USA], LLC*, 202 AD3d at 911). Accordingly, Lalezarian cannot be held liable for injuries allegedly caused by a hazardous condition therein as a matter of law (*see Kennedy v Hennessey*, 211 AD3d at 833; *Deutsch v Green Hills [USA], LLC*, 202 AD3d at 911). In opposition, the plaintiff failed to raise a triable issue of fact.

The plaintiff's remaining contentions either are without merit or need not be reached in light of our determination.

Accordingly, the Supreme Court, upon reargument, properly granted that branch of Lalezarian's prior motion which was for summary judgment dismissing the amended complaint insofar as asserted against it.

BRATHWAITE NELSON, J.P., FORD, WAN and LOVE, JJ., concur.

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PER CURIAM.

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Queens County (Carmen R. Velasquez, J.), dated June 29, 2021. The order, insofar as appealed from, granted that branch of the motion of the defendant Lalezarian Properties, LLC, which was for leave to reargue that branch of its prior motion which was for summary judgment dismissing the amended complaint insofar as asserted against it, which had been denied in an order of the same court dated March 13, 2020, and, upon reargument, in effect, vacated so much of the order dated March 13, 2020, as denied that branch of that defendant's prior motion, and thereupon, granted that branch of that defendant's prior motion. ORDERED that the order dated June 29, 2021, is affirmed insofar as appealed from, with costs. In January 2016, the plaintiff, who was employed as a security guard, allegedly was injured when she slipped on "black ice" in an underground parking garage where she was working. The plaintiff commenced this personal injury action in December 2016 against, among others, the defendant Lalezarian Properties, LLC (hereinafter Lalezarian), the alleged property owner of the building complex. In August 2019, Lalezarian moved, among other things, for summary judgment dismissing the amended complaint insofar as asserted against it, arguing, inter alia, that it did not own, manage, maintain, operate, or control the property where the plaintiff's accident occurred. In support of its motion, Lalezarian submitted a deed to the property indicating that it was owned by Nassau County Industrial Development Agency, and an affidavit of Lalezarian's authorized agent indicating that Lalezarian did not own, manage, operate, control, or maintain the property. The plaintiff opposed the motion. In an order dated March 13, 2020, the Supreme Court, among other things, denied that branch of Lalezarian's motion without prejudice to renew upon the completion of discovery. In October 2020, Lalezarian moved, inter alia, for leave to reargue that branch of its prior motion which was for summary judgment dismissing the amended complaint insofar as asserted against it, arguing that the Supreme Court overlooked a material issue of fact and misapprehended the law with respect to, among other things, Lalezarian's alleged ownership of the [*2] property. In an order dated June 29, 2021, the Supreme Court, inter alia, granted Lalezarian leave to reargue and, upon reargument, in effect, vacated so much of the order dated March 13, 2020, as denied that branch of its prior motion which was for summary judgment dismissing the amended complaint insofar as asserted against it, and thereupon, granted that branch of the prior motion. The court determined, among other things, that there was no evidence that Lalezarian owned the property where the plaintiff's accident occurred. The plaintiff appeals. "Motions for reargument are addressed to the sound discretion of the court which decided the prior motion and may be granted upon a showing that the court overlooked or misapprehended the facts or law or for some other reason mistakenly arrived at its earlier decision" (*Kinard v New York City Tr. Auth.* , 233 AD3d 665 , 666 [internal quotation marks omitted]; see *Hallett v City of New York* , 219 AD3d 809, 810). "As a general rule, liability for a dangerous condition on real property must be predicated upon ownership, occupancy, control, or special use of the property" (*Misa v Town of Brookhaven* , 212 AD3d 804, 805-806 ; see *Deutsch v Green Hills [USA], LLC* , 202 AD3d 909, 911). "Where none of these factors are present, a party cannot be held liable for injuries caused by the allegedly defective

condition" (Deutsch v Green Hills [USA], LLC , 202 AD3d at 911 [internal quotation marks omitted]; see Kennedy v Hennessey , 211 AD3d 833, 833). Here, Lalezarian established its prima facie entitlement to judgment as a matter of law dismissing the amended complaint insofar as asserted against it. In this regard, Lalezarian established that it did not own the property where the accident occurred (see Misa v Town of Brookhaven , 212 AD3d at 805-806 ; Deutsch v Green Hills [USA], LLC , 202 AD3d at 911). Accordingly, Lalezarian cannot be held liable for injuries allegedly caused by a hazardous condition therein as a matter of law (see Kennedy v Hennessey , 211 AD3d at 833 ; Deutsch v Green Hills [USA], LLC , 202 AD3d at 911). In opposition, the plaintiff failed to raise a triable issue of fact. The plaintiff's remaining contentions either are without merit or need not be reached in light of our determination. Accordingly, the Supreme Court, upon reargument, properly granted that branch of Lalezarian's prior motion which was for summary judgment dismissing the amended complaint insofar as asserted against it. BRATHWAITE NELSON, J.P., FORD, WAN and LOVE, JJ., concur. ENTER: Darrell M. Joseph Clerk of the Court Court Decisions All Court Decisions Official Reports Service Bound Volumes Decision Search Resources RSS Feeds Style Manual Citation Tools Opinion Formatting & Privacy Guidelines Opinion Selection Criteria Legal Research Portal Site Index About About the Law Reporting Bureau About our Operations Contact Us Twitter Quick Contact Info 17 Lodge Street Albany, NY 12207 Phone: (518) 453-6900 Links to or from other sites do not signify endorsement or relationship with them.