

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

Sadow v. Radio City Prods. LLC

2026 NY Slip Op 03517 · No. 2025-04203 · Decided June 4, 2026

SUMMARY

The Appellate Division, First Department, affirmed dismissal of Jan K. Sadow's personal-injury claims arising from a fall over a barricade outside Radio City Music Hall. The court held that the City of New York did not owe plaintiff a special duty and was not liable for discretionary pedestrian-traffic control decisions, while the Radio City defendants lacked ownership or special use of the NYPD barricade.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, First Department
WRITING FOR THE COURT	Scarpulla, J.P.; Shulman, J.; Higgitt, J.; O'Neill Levy, J.; Chan, J.
JURISDICTION	New York Supreme Court, Appellate Division, First Department
DECIDED	June 4, 2026
DOCKET	2025-04203
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiff appealed from an order granting the City of New York's motions to dismiss and/or for summary judgment and granting the Radio City defendants' motion for summary judgment dismissing the complaint.
STANDARD OF REVIEW	Review of dismissal and summary-judgment determinations; the court considered whether defendants made prima facie showings and whether plaintiff raised a triable issue of fact.
PRECEDENTIAL VALUE	Published New York Appellate Division decision
PARTIES	Jan K. Sadow v. Radio City Productions LLC, MSG Networks, Inc., MSG Entertainment Holdings, LLC, RCPI Landmark Properties, L.L.C., Tishman Speyer Properties, L.P., City of New York

TOPICS

- municipal liability
- premises liability
- negligence
- appellate procedure
- standard of review

PRACTICE AREAS

municipal liability

premises liability

negligence

appellate procedure

QUESTIONS PRESENTED

1. Whether the City of New York could be held liable for plaintiff's injuries absent adequately pleaded or established facts showing that it owed plaintiff a special duty.
2. Whether the City's police officers' placement of pedestrian-control barricades constituted an affirmative creation of a dangerous condition or discretionary governmental traffic-control activity supporting municipal liability.
3. Whether the Radio City defendants could be liable for a sidewalk accident caused by an NYPD barricade that they did not own or control and that was not part of the sidewalk for purposes of Administrative Code of the City of New York § 7-210.

HOLDINGS

1. The City was not liable because plaintiff did not adequately plead or establish that the City owed her a special duty through positive direction and control over a known and dangerous condition, a definite promise or assurance on which she relied, or affirmative conduct placing her in harm's way.
2. The City could not be held liable for the alleged negligence of its officers in deciding how to configure and place the barricades because the officers were performing the discretionary governmental function of controlling pedestrian traffic.
3. The Radio City defendants were entitled to dismissal and summary judgment because they did not own the barricade, lacked the ability to exercise control over it, and the NYPD barricade was not part of the sidewalk for purposes of Administrative Code of the City of New York § 7-210.

KEY QUOTATIONS

“Thus, the City cannot be held liable for plaintiff's injuries, as its officers were engaged in the discretionary governmental function of traffic control before plaintiff fell” ([*1])

“The barricades the NYPD placed on the sidewalk abutting Radio City's property as part of its crowd control measures were not part of the sidewalk for purposes of liability under Administrative Code of City of NY § 7-210” ([*2])

FACTUAL BACKGROUND

Plaintiff tripped and fell on a barricade placed by New York City police officers on the sidewalk outside Radio City Music Hall to accommodate and facilitate crowds. Plaintiff testified that she had no contact with a police officer before the accident. The barricade was owned or controlled by the NYPD, and the Radio City defendants did not own it or have the ability to exercise control over it.

PROCEDURAL HISTORY

The Supreme Court, New York County, granted the City of New York's motions to dismiss and/or for summary judgment and granted the Radio City defendants' motion for summary judgment dismissing the complaint. The Appellate Division, First Department, unanimously affirmed without costs.

DISPOSITION

affirmed

CASES CITED

- Ferreira v. City of Binghamton, 38 NY3d 298, 309-310 (2022)
- Polito v. Escorcias, 210 AD3d 510, 510-511 (1st Dept. 2022)
- Betancourt v. City of New York, 237 AD3d 597, 598 (1st Dept. 2025)
- Mahar v. McDonald, 234 AD3d 835, 836 (2d Dept. 2025)
- Sutton v. City of New York, 119 AD3d 851, 852-853 (2d Dept. 2014), lv. denied, 24 NY3d 918 (2015)
- Jagatpal v. Chamble, 172 AD3d 573, 574 (1st Dept. 2019)
- Islam v. City of New York, 111 AD3d 493, 494 (1st Dept. 2013)
- Applewhite v. Accuhealth, Inc., 21 NY3d 420, 426 n. 1 (2013)
- Casale v. City of New York, 117 AD3d 414, 415 (1st Dept. 2014)
- Kaufman v. Silver, 90 NY2d 204, 207 (1997)
- Hurley v. Related Mgt. Co., 74 AD3d 648, 649 (1st Dept. 2010)
- Staruch v. 1328 Broadway Owners, LLC, 111 AD3d 698, 699 (2d Dept. 2013)

OPINION

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PER CURIAM.

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of counsel), for City of New York, respondent. [*1] Order, Supreme Court, New York County (Ariel D. Chesler, J.), entered June 18, 2025, which granted the motions of defendant City of New York to dismiss and/or for summary judgment and defendants Radio City Productions LLC, RCPI Landmark Properties, L.L.C., Tishman Speyer Properties, L.P., and MSG Entertainment Holdings, LLC (collectively, Radio City) for summary judgment dismissing the complaint, unanimously affirmed, without costs. Supreme Court properly granted the City's motion, as plaintiff did not adequately plead in the complaint that the City owed her a special duty by exercising positive direction and control over a known and dangerous condition (see *Ferreira v City of Binghamton* , 38 NY3d 298 , 309-310 [2022]). Plaintiff merely alleged that the City was negligent in creating a dangerous condition based on how its officers placed barricades on the sidewalk outside Radio City Music Hall to accommodate and facilitate crowds (see *Polito v Escorcio* , 210 AD3d 510 , 510-511 [1st Dept 2022]). Plaintiff's testimony that she had no contact with a police officer before she tripped and fell on the barricade conclusively demonstrates that the City did not make a definite promise or assurance to her or that she relied on any such assurance or promise (see *Betancourt v City of New York* , 237 AD3d 597 , 598 [1st Dept 2025]). There is no evidence that the City took positive control of a known and dangerous safety condition which gave rise to plaintiff's injuries or that it acted affirmatively to place plaintiff in harm's way (see *Mahar v McDonald* , 234 AD3d 835 , 836 [2d Dept 2025]; *Sutton v City of New York* , 119 AD3d 851, 852-853 [2d Dept 2014], lv denied 24 NY3d 918 [2015]). Thus, the City cannot be held liable for plaintiff's injuries, as its officers were engaged in the discretionary governmental function of traffic control before plaintiff fell (see *Jagatpal v Chamble* , 172 AD3d 573 , 574 [1st Dept 2019]). Even if we were to consider plaintiff's unpreserved argument that the existence of a special duty is irrelevant because the City affirmatively caused or created the alleged condition (see *Islam v City of New York* , 111 AD3d 493, 494 [1st Dept 2013]), the argument is unavailing on the merits (see *Applewhite v Accuhealth, Inc.* , 21 NY3d 420 , 426 n 1 [2013]). The police officers' alleged negligence in deciding how to configure the City's barricades cannot support the City's liability because the officers were engaged in the discretionary governmental function of controlling pedestrian traffic when they made decisions about where to place the barricades (see *Casale v City of New York* , 117 AD3d 414, 415 [1st Dept 2014]). [*2] The court also properly granted Radio City's motion to dismiss the complaint. Radio City met its initial burden to show that it did not own the barricade that caused the accident. Radio City also made a prima facie showing as to its lack of special use because it did not have the "ability to exercise control" over the barricade that caused plaintiff's fall (*Kaufman v Silver* , 90 NY2d 204, 207 [1997]; see *Hurley v Related Mgt. Co.* , 74 AD3d 648, 649 [1st Dept 2010]). In opposition, plaintiff failed to raise a triable issue of fact. The barricades the NYPD placed on the sidewalk abutting Radio City's property as part of its crowd control measures were not part of the sidewalk for purposes of liability under Administrative Code of City of NY § 7-210 (see *Staruch v 1328 Broadway Owners, LLC* , 111 AD3d 698, 699 [2d Dept 2013]). THIS CONSTITUTES THE DECISION AND ORDER OF THE

SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT. ENTERED: June 4, 2026
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