

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

Jacinto v. Cipes

Jacinto, 2026 NY Slip Op 03953 (Supreme Court of the State of New York Appellate Division Second Judicial Department 2026) · No. 2023-10949 · Decided June 24, 2026

SUMMARY

The New York Appellate Division, Second Department, affirmed summary judgment dismissing a personal-injury action arising from the plaintiff’s slip and fall on an outdoor stamped concrete walkway. The court held that the contractors did not launch an instrument of harm or create or exacerbate a dangerous condition, and were entitled to rely on plans and specifications that were not patently defective. The court also concluded that the walkway’s wetness from precipitation, without more, did not establish a dangerous condition.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Betsy Barros, J.P.; Cheryl E. Chambers, J.; Lillian Wan, J.; Susan Quirk, J.
JURISDICTION	New York Supreme Court, Appellate Division, Second Department
DECIDED	June 24, 2026
DOCKET	2023-10949
DISPOSITION	affirmed
PROCEDURAL POSTURE	The plaintiff appealed from an order granting the defendants' separate motions for summary judgment dismissing the personal-injury complaint against each defendant.
STANDARD OF REVIEW	Summary judgment is proper where the movant establishes entitlement to judgment as a matter of law; the opposing party must then raise a triable issue of fact.
PRECEDENTIAL VALUE	published
PARTIES	Onelda Jacinto v. Stephen Cipes, Lauria Realty Services, Inc., Robert Lauria, Verdi Construction Co., LLC, SJS Concrete Works, LLC

TOPICS

premises liability

personal injury

construction law

negligence

appellate procedure

PRACTICE AREAS

premises liability

construction law

personal injury

negligence

appellate procedure

QUESTIONS PRESENTED

1. Whether the general contractor and subcontractor could be held liable to Jacinto under the contractor-liability rule recognized in *Espinal v. Melville Snow Contractors*.
2. Whether the defendants established as a matter of law that the walkway was not a dangerous condition merely because it was wet from precipitation.
3. Whether Jacinto raised a triable issue of fact in opposition to the defendants' summary-judgment motions.

HOLDINGS

1. Verdi Construction Co., LLC and SJS Concrete Works, LLC were entitled to summary judgment because they demonstrated that they did not launch a force or instrument of harm and did not create or exacerbate a dangerous condition. They also established that they were justified in relying on the plans and specifications because the plans were not so patently defective as to place them on notice that applying the sealant created a danger.
2. The defendants were entitled to summary judgment because the plaintiff's fall occurred solely because the walkway was wet from precipitation; the mere fact that an outdoor walkway becomes wet from precipitation is insufficient to establish a dangerous condition.

KEY QUOTATIONS

*"A contractor can be held liable to a third party when, "in failing to exercise reasonable care in the performance of [its] duties, [it] launch[es] a force or instrument of harm"" ([*2])*

*"The mere fact that an outdoor walkway or stairway becomes wet from precipitation is insufficient to establish the existence of a dangerous condition" ([*2])*

FACTUAL BACKGROUND

Jacinto allegedly slipped and fell while walking across an outdoor stamped-concrete walkway in front of the Dunkin' Donuts where she worked. She alleged that a sealant applied to the walkway made it excessively slippery, particularly when wet. The defendants included the shopping-center owner and manager, the general contractor that renovated the area, and the subcontractor that built the walkway. The defendants demonstrated that the fall occurred because the walkway was wet from precipitation and that the contractors followed plans and specifications that were not patently defective.

PROCEDURAL HISTORY

Onelda Jacinto commenced a personal-injury action after slipping and falling on an outdoor stamped-concrete walkway in front of the Dunkin' Donuts where she worked. The Supreme Court, Westchester County, granted the separate summary-judgment motions of the property owner, property manager, manager's president, general contractor, and subcontractor. The Appellate Division affirmed the order insofar as appealed from.

DISPOSITION

affirmed

CASES CITED

- Espinal v Melville Snow Contrs., 98 NY2d 136
- Quezada v Structure Tone, Inc., 226 AD3d 716
- Walsh v Super Value, Inc., 76 AD3d 371, 376-377
- Union v Excel Commercial Maintenance, 185 AD3d 869, 870
- Derosa v Zaliv, LLC, 189 AD3d 1355, 1356
- Rodriguez v Kimco Centereach 605, 298 AD2d 571, 572

OPINION

Jacinto v. Cipes 2026 NY Slip Op 03953

PER CURIAM.

Jacinto v Cipes - 2026 NY Slip Op 03953 skip to main content It appears you are using Adblock. Please disable Adblock to best experience our website. Law Reporting Bureau Thomas J.K. Smith, State Reporter Court Decisions Resources About Home All Court Decisions Decisions Jacinto v Cipes 2026 NY Slip Op 03953 June 24, 2026 Appellate Division, Second Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This decision is uncorrected and subject to revision before publication in the Official Reports. Onelda Jacinto, appellant, v Stephen Cipes, et al., respondents. Supreme Court of the State of New York, Appellate Division, Second Judicial Department Decided on June 24, 2026 2023-10949, (Index No. 70144/19) Betsy Barros, J.P. Cheryl E. Chambers Lillian Wan Susan Quirk, JJ. Law Office of Ryan S. Goldstein, PLLC, Bronx, NY, for appellant. Schwab & Gasparini, PLLC, White Plains, NY (Louis U. Gasparini of counsel), for respondents Stephen Cipes, Lauria Realty Services, Inc., and Robert Lauria. Eric D. Feldman, Melville, NY (David R. Holland of counsel), for respondent Verdi Construction Co., LLC. Correia, Conway & Stiefeld, White Plains, NY (Marc E. Stiefeld of counsel), for respondent SJS Concrete Works, LLC. [*1] DECISION & ORDER In an action to recover damages for personal injuries, the plaintiff appeals from an order of the Supreme Court, Westchester County (Hal B. Greenwald, J.), dated July 26, 2023. The order, insofar as appealed from, granted those branches of the separate motions of the defendants Stephen Cipes, Lauria Realty Services, Inc., and Robert Lauria, the defendant SJS Concrete Works, LLC, and the defendant Verdi Construction Co., LLC, which were for summary judgment

dismissing the complaint insofar as asserted against each of them. ORDERED that the order is affirmed insofar as appealed from, with one bill of costs to the respondents appearing separately and filing separate briefs. The plaintiff allegedly was injured when she slipped and fell while walking across an outdoor stamped concrete walkway in front of a Dunkin' Donuts where she worked. She alleged, among other things, that a sealant applied to the walkway made it excessively slippery, especially when wet. The plaintiff commenced this action against the defendants Stephen Cipes, the owner of the shopping center in which the Dunkin' Donuts was located; Lauria Realty Services, Inc., the managing company of the shopping center; Robert Lauria, the president of the managing company; Verdi Construction Co., LLC (hereinafter Verdi), the general contractor which renovated the area where the accident occurred; and SJS Concrete Works, LLC (hereinafter SJS), the subcontractor Verdi retained to build the walkway. Cipes, Lauria Realty Services, Inc., and Robert Lauria moved, inter alia, for summary judgment dismissing the complaint insofar as asserted against them. Verdi also moved, and SJS separately moved, among other things, for summary judgment dismissing the complaint insofar as asserted against each of them. In an order dated July 26, 2023, the Supreme Court, inter alia, granted those branches of the separate motions. The plaintiff appeals. SJS and Verdi each made a prima facie showing of their entitlement to judgment as a matter of law dismissing the complaint insofar as asserted against each of them. A contractor can [*2] be held liable to a third party when, "in failing to exercise reasonable care in the performance of [its] duties, [it] launch[es] a force or instrument of harm" (*Espinal v Melville Snow Contrs.* , 98 NY2d 136, 140 [internal quotation marks omitted]). Here, SJS and Verdi each demonstrated that they did not launch an instrument of harm or create or exacerbate a dangerous condition (see *Espinal v Melville Snow Contrs.* , 98 NY2d 136 ; *Quezada v Structure Tone, Inc.* , 226 AD3d 716). They further established that they were justified in relying upon the plans and specifications that they had contracted to follow because those plans were not so patently defective as to place them on notice that the application of the sealant created any danger (see *Walsh v Super Value, Inc.* , 76 AD3d 371 , 376-377). In opposition, the plaintiff failed to raise a triable issue of fact (see *Union v Excel Commercial Maintenance* , 185 AD3d 869, 870). Moreover, all of the defendants established their prima facie entitlement to judgment as a matter of law dismissing the complaint insofar as asserted against each of them on the ground that the plaintiff did not slip and fall due to a dangerous condition of the walkway. "The mere fact that an outdoor walkway or stairway becomes wet from precipitation is insufficient to establish the existence of a dangerous condition" (*Derosa v Zaliv, LLC* , 189 AD3d 1355, 1356). Here, the defendants demonstrated that the plaintiff's slip and fall occurred solely because the walkway was wet due to precipitation (see *id.*). In opposition, the plaintiff failed to raise a triable issue of fact (see *Rodriguez v Kimco Centereach 605* , 298 AD2d 571, 572). The plaintiff's remaining contentions are without merit. Accordingly, the Supreme Court properly granted those branches of the separate motions of SJS, Verdi, and Cipes, Lauria Realty Services, Inc., and Robert Lauria which were for summary judgment dismissing the complaint

insofar as asserted against each of them. BARROS, J.P., CHAMBERS, WAN and QUIRK, 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.

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/new-york-supreme-court-appellate-division-second-department-supreme-court-of-the-state-of-new-york-a/2026/jacinto-v-cipes-eqbuwsxs>