

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

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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