

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

Jackson v. A M E Zion-Trinity Hous. Dev. Fund Co., Inc.

Jackson, 2026 NY Slip Op 00243 (Supreme Court of the State of New York Appellate Division Second Judicial Department 2026) · No. 2022-09063; 2023-12318 · Decided January 21, 2026

SUMMARY

The Appellate Division, Second Department, reversed the judgment insofar as it dismissed the plaintiff's claim alleging that defendants had constructive notice of an icy condition in a parking lot. The court held that defendants failed to establish prima facie that they lacked constructive notice because their maintenance employee provided only general information about snow and ice removal practices and did not identify when the area was last inspected or treated.

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.; Linda Christopher, J.; Janice A. Taylor, J.; James P. McCormack, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
DECIDED	January 21, 2026
DOCKET	2022-09063; 2023-12318
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Plaintiff appealed from an order granting defendants summary judgment on the constructive-notice theory and from the resulting judgment dismissing that portion of the complaint. The Appellate Division dismissed the appeal from the order because entry of the judgment terminated the right of direct appeal, reviewed the order on the appeal from the judgment, and reversed the judgment insofar as appealed from.
STANDARD OF REVIEW	Summary judgment is reviewed under the standard requiring the movant to make a prima facie showing of entitlement to judgment as a matter of law; in a snow- or ice-related slip-and-fall action, the property owner must initially establish that it neither created the condition nor had actual or constructive notice of it.

PRECEDENTIAL VALUE	Published opinion
PARTIES	Jesse Jackson v. A M E Zion-Trinity Housing Development Fund Company, Inc., et al.

TOPICS

premises liability personal injury summary judgment standard of review appellate procedure

PRACTICE AREAS

premises liability personal injury negligence civil procedure

QUESTIONS PRESENTED

1. Whether the appeal from the September 8, 2022 order had to be dismissed after entry of the December 12, 2023 judgment.
2. Whether defendants established prima facie that they lacked constructive notice of the alleged icy condition, thereby entitling them to summary judgment on the constructive-notice claim.

HOLDINGS

1. The appeal from the order had to be dismissed because the right of direct appeal from the order terminated upon entry of the judgment, but the issues raised by that appeal were reviewable on the appeal from the judgment.
2. Defendants were not entitled to summary judgment because they failed to establish prima facie that they lacked constructive notice of the alleged icy condition.

KEY QUOTATIONS

“The appeal from the order must be dismissed because the right of direct appeal therefrom terminated with the entry of the judgment in the action” ([*1])

“Here, the defendants failed to establish, prima facie, that they lacked constructive notice of the alleged icy condition.” ([*2])

“Since the defendants failed to meet their prima facie burden, the Supreme Court should have denied that branch of their motion which was for summary judgment dismissing so much of the complaint as alleged constructive notice of the allegedly defective condition without regard to the sufficiency of the plaintiff’s opposition papers” ([*2])

FACTUAL BACKGROUND

On December 4, 2019, at approximately 7:50 a.m., Jesse Jackson allegedly slipped and fell on a patch of ice in the parking lot of Harriet Tubman Terrace Apartments. Jackson alleged that the defendants had constructive notice of the icy condition. A defendants’ maintenance employee described general snow- and-ice-removal practices but did not identify when the area had last been salted, cleared of ice, or inspected before the accident.

PROCEDURAL HISTORY

Jackson commenced a personal-injury action after slipping and falling on ice in the parking lot of Harriet Tubman Terrace Apartments. The Supreme Court, Dutchess County, granted defendants summary judgment dismissing the constructive-notice claim, and after a trial on the alternative claim that defendants created the condition, entered a judgment dismissing the complaint. Jackson appealed, and the Appellate Division reviewed the summary-judgment ruling on the appeal from the judgment.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The order was modified to deny defendants' motion for summary judgment on the constructive-notice claim and to reinstate that portion of the complaint. The matter was left for further proceedings consistent with the decision.

CASES CITED

- Matter of Aho, 39 NY2d 241, 248
- Stanescu v. Stanescu, 206 AD3d 1031, 1033
- Gayle v. City of New York, 230 AD3d 653, 654
- Islam v. City of New York, 218 AD3d 449, 450
- Ravello v. Long Is. R.R., 237 AD3d 1123, 1124
- Edwards v. Genting N.Y., LLC, 217 AD3d 749, 750
- Winegrad v. New York Univ. Med. Ctr., 64 NY2d 851, 853

OPINION

PER CURIAM.

Jackson v A M E Zion-Trinity Hous. Dev. Fund Co., Inc. (2026 NY Slip Op 00243) Jackson v A M E Zion-Trinity Hous. Dev. Fund Co., Inc. 2026 NY Slip Op 00243 Decided on January 21, 2026 Appellate Division, Second 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 on January 21, 2026 SUPREME COURT OF THE STATE OF NEW YORK Appellate Division, Second Judicial Department VALERIE BRATHWAITE NELSON, J.P. LINDA CHRISTOPHER JANICE A. TAYLOR JAMES P. MCCORMACK, JJ. 2022-09063 2023-12318 (Index No. 51297/20) [*1]Jesse Jackson, appellant, v A M E Zion-Trinity Housing Development Fund Company, Inc., et al., respondents.

Finkelstein & Partners, LLP, Newburgh, NY (Brian Acard and Andrew L. Spitz of counsel), for appellant. Bailey, Johnson & Peck, P.C., Albany, NY (Thomas J. Johnson of counsel), for respondents. DECISION & ORDER In an action to recover damages for personal injuries, the plaintiff appeals from (1) an order of the Supreme Court, Dutchess County (Maria G. Rosa, J.), dated September 8, 2022, and (2) a judgment of the same court dated December 12, 2023.

The order, insofar as appealed from, granted that branch of the defendants' motion which was for summary judgment dismissing so much of the complaint as alleged constructive notice of the allegedly defective condition.

The judgment, insofar as appealed from, upon the order, is in favor of the defendants and against the plaintiff dismissing so much of the complaint as alleged constructive notice of the allegedly defective condition. ORDERED that the appeal from the order is dismissed; and it is further, ORDERED that the judgment is reversed insofar as appealed from, on the law, that branch of the defendants' motion which was for summary judgment dismissing so much of the complaint as alleged constructive notice of the allegedly defective condition is denied, that portion of the complaint is reinstated, and the order is modified accordingly; and it is further, ORDERED that one bill of costs is awarded to the plaintiff.

The appeal from the order must be dismissed because the right of direct appeal therefrom terminated with the entry of the judgment in the action (see Matter of Aho, 39 NY2d 241, 248). The issues raised on the appeal from the order are brought up for review and have been considered on the appeal from the judgment (see CPLR 5501[a][1]; Stanescu v Stanescu, 206 AD3d 1031, 1033).

The plaintiff commenced this action to recover damages for personal injuries that he allegedly sustained on December 4, 2019, at approximately 7:50 a.m., when he slipped and fell on a patch of ice in a parking lot of the defendant Harriet Tubman Terrace Apartments.

The defendants moved for summary judgment dismissing the complaint. In an order [*2]dated September 8, 2022, the Supreme Court, inter alia, granted that branch of the defendants' motion which was for summary judgment dismissing so much of the complaint as alleged constructive notice of the allegedly defective condition. Following a trial on so much of the complaint as alleged that the defendants created the allegedly defective condition, the court issued a judgment dated December 12, 2023, dismissing the complaint.

The plaintiff appeals from so much of the judgment as dismissed so much of the complaint as alleged constructive notice of the allegedly defective condition. "In moving for summary judgment in an action predicated upon the presence of snow or ice, the defendants [have] the burden of establishing, prima facie, that [they] neither created the snow or ice condition that allegedly caused

the plaintiff to fall nor had actual or constructive notice of that condition" (*Gayle v City of New York*, 230 AD3d 653, 654; see *Islam v City of New York*, 218 AD3d 449, 450).

"Accordingly, a property owner seeking summary judgment in a slip-and-fall case has the initial burden of making a prima facie showing that it neither created the hazardous condition nor had actual or constructive notice of its existence for a sufficient length of time to discover and remedy it" (*Ravello v Long Is. R.R.*, 237 AD3d 1123, 1124 [internal quotation marks omitted]; see *Gayle v City of New York*, 230 AD3d at 654).

Here, the defendants failed to establish, prima facie, that they lacked constructive notice of the alleged icy condition. The defendants' maintenance employee provided only general information about his snow and ice removal practices, and he failed to specify when he last salted, removed ice from, or inspected the area where the plaintiff fell relative to the time of the accident (see *Ravello v Long Is.*

R.R., 237 AD3d at 1124; *Edwards v Genting N.Y., LLC*, 217 AD3d 749, 750). Since the defendants failed to meet their prima facie burden, the Supreme Court should have denied that branch of their motion which was for summary judgment dismissing so much of the complaint as alleged constructive notice of the allegedly defective condition without regard to the sufficiency of the plaintiff's opposition papers (see *Winegrad v New York Univ.*

Med. Ctr., 64 NY2d 851, 853). BRATHWAITE NELSON, J.P., CHRISTOPHER, TAYLOR and MCCORMACK, JJ., concur. ENTER: Darrell M. Joseph Clerk of the Court