

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

Chelnitsky v. Amalgamated Warbasse Houses, Inc.

Chelnitsky, 2026 NY Slip Op 01485 (Supreme Court of the State of New York Appellate Division Second
Judicial Department 2026) · No. 2024-08659 · Decided March 18, 2026

SUMMARY

The Appellate Division, Second Department, reversed an order denying the defendant's motion for summary judgment in a personal-injury action arising from the plaintiff's fall in a parking lot. The court held that video surveillance established that the plaintiff fell after traversing the speed bump, rather than because of a crack in it, and therefore any alleged negligence in maintaining the speed bump was not a proximate cause of the accident.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Angela G. Iannacci, J.P.; Linda Christopher; Lourdes M. Ventura; Phillip Hom
JURISDICTION	New York Supreme Court, Appellate Division, Second Department
DECIDED	March 18, 2026
DOCKET	2024-08659
DISPOSITION	reversed
PROCEDURAL POSTURE	The defendant appealed from an order denying its motion for summary judgment dismissing the personal-injury complaint.
STANDARD OF REVIEW	On a summary judgment motion, the movant must establish prima facie entitlement to judgment as a matter of law; if that showing is made, the opposing party must raise a triable issue of fact.
PRECEDENTIAL VALUE	precedential
PARTIES	Amalgamated Warbasse Houses, Inc. v. Emilia Chelnitsky

TOPICS

- premises liability proximate cause summary judgment negligence appellate procedure

PRACTICE AREAS

premises liability

personal injury

negligence

summary judgment

appellate procedure

QUESTIONS PRESENTED

1. Whether the defendant established entitlement to summary judgment by demonstrating that an alleged defect in the speed bump was not a proximate cause of the plaintiff's fall.
2. Whether the plaintiff raised a triable issue of fact in opposition to the defendant's summary judgment motion.

HOLDINGS

1. The defendant was entitled to summary judgment because the video surveillance established prima facie that the plaintiff did not trip on a crack in the speed bump and that any negligence in maintaining the speed bump was not a proximate cause of the accident.
2. The plaintiff failed to raise a triable issue of fact in opposition to the defendant's motion.

KEY QUOTATIONS

"The video surveillance footage established, prima facie, that the plaintiff did not trip on a crack in a speed bump, but, rather, that she fell due to a misstep after having completely traversed the speed bump" ([*1])

FACTUAL BACKGROUND

The plaintiff alleged that she was injured when she fell while walking over a speed bump in a parking lot owned by the defendant. She testified that her shoe caught in a crack at the beginning of the speed bump and that she fell on top of it. Video surveillance footage instead showed that she completely traversed the speed bump and fell because of a misstep.

PROCEDURAL HISTORY

The plaintiff sued to recover damages for injuries allegedly sustained when she fell while walking over a speed bump in the defendant's parking lot. After discovery, the defendant moved for summary judgment. The Supreme Court, Kings County, denied the motion, and the Appellate Division reversed and granted summary judgment to the defendant.

DISPOSITION

reversed

CASES CITED

- *Schneider v. Gap, Inc.*, 208 A.D.3d 606, 607
- *Pasquaretto v. Long Is. Univ.*, 150 A.D.3d 1129, 1130-1131

OPINION

PER CURIAM.

Chelnitsky v Amalgamated Warbasse Houses, Inc. (2026 NY Slip Op 01485) Chelnitsky v Amalgamated Warbasse Houses, Inc. 2026 NY Slip Op 01485 Decided on March 18, 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 March 18, 2026 SUPREME COURT OF THE STATE OF NEW YORK Appellate Division, Second Judicial Department ANGELA G. IANNACCI, J.P. LINDA CHRISTOPHER LOURDES M. VENTURA PHILLIP HOM, JJ. 2024-08659 (Index No. 525892/21) [*1]Emilia Chelnitsky, respondent, v Amalgamated Warbasse Houses, Inc., appellant. Baker, Greenspan & Bernstein, Bellmore, NY (Eric R. Bernstein of counsel), for appellant.

Gregory Spektor & Associates, P.C., Rosedale, NY (Sol Z. Sokel of counsel), for respondent. DECISION & ORDER In an action to recover damages for personal injuries, the defendant appeals from an order of the Supreme Court, Kings County (Peter P. Sweeney, J.), dated May 13, 2024.

The order denied the defendant's motion for summary judgment dismissing the complaint. ORDERED that the order is reversed, on the law, with costs, and the defendant's motion for summary judgment dismissing the complaint is granted.

The plaintiff commenced this action to recover damages for personal injuries she allegedly sustained when she fell while walking over a speed bump in a parking lot owned by the defendant. At her deposition, the plaintiff testified that her shoe got caught in a crack "right at the beginning" of the speed bump, causing her to fall "right on top of that speed bump."

After discovery, the defendant moved for summary judgment dismissing the complaint. By order dated May 13, 2024, the Supreme Court denied the motion. The defendant appeals. The defendant established its prima facie entitlement to judgment as a matter of law dismissing the complaint through the submission of, inter alia, a transcript of the plaintiff's deposition testimony and video surveillance footage of the accident.

The video surveillance footage established, prima facie, that the plaintiff did not trip on a crack in a speed bump, but, rather, that she fell due to a misstep after having completely traversed the speed bump (see *Schneider v Gap, Inc.*, 208 AD3d 606, 607).

The defendant therefore demonstrated that any negligence on its part in maintaining the speed bump was not a proximate cause of the plaintiff's accident (see *Pasquaretto v Long Is. Univ.*, 150 AD3d 1129, 1130-1131).

In opposition, the plaintiff failed to raise a triable issue of fact. Accordingly, the Supreme Court erred in denying the defendant's motion for summary judgment dismissing the complaint. In light of our determination, we need not reach the parties' remaining contentions. IANNACCI, J.P., CHRISTOPHER, VENTURA and HOM, JJ., concur. ENTER: Darrell M. Joseph Clerk of the Court

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