

**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

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