



28 A.D.3d 236, 813 N.Y.S.2d
379, 2006 N.Y. Slip Op. 02621

*1 Debrah Waller, Appellant

v

Site Safety LLC et al.,

Respondents. (And Other Actions.)

Supreme Court, Appellate Division,

First Department, New York

103409/02, 8223

April 6, 2006

CITE TITLE AS: Waller v Site Safety LLC

HEADNOTE

[Negligence](#)

[Sidewalks](#)

Complaint alleging injury to plaintiff from trip and fall over wood protruding from barricade in temporary pedestrian walkway at construction site was dismissed; photographs taken shortly after plaintiff's fall did not show alleged hazard, and defendants established that they had neither actual nor constructive notice of any hazard—defendant's manager

inspected walkway shortly before accident, and no evidence existed that such duties were negligently performed.

Order, Supreme Court, New York County (Alice Schlesinger, J.), entered on or about November 10, 2004, which granted defendants' respective motions and cross motions for summary judgment dismissing the complaint, unanimously affirmed, without costs.

Plaintiff allegedly sustained injury when she tripped and fell over a piece of wood protruding from a barricade used in the construction of a temporary pedestrian walkway at a construction site. However, photographs of the accident location taken shortly after plaintiff's fall do not show the alleged hazard and, in any event, defendants established that they had neither actual nor constructive notice of any such hazard (see  *Gordon v American Museum of Natural History*, 67 NY2d 836 [1986]). Defendant Site Safety LLC's manager inspected the subject walkway shortly before the accident and found it safe, and there is no evidence that Site Safety negligently performed its duties (see *Doherty v City of New York*, 16 AD3d 124 [2005]). *2

We have considered plaintiff's remaining contentions and find them unavailing. Concur—Tom, J.P., Andrias, Marlow, Williams and McGuire, JJ.

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