

Briefs and Other Related Documents

Supreme Court, Appellate Division, Second Department, New York.

Isaac DAWSON, appellant,

v.

FOUNTAINS-CLOVE ROAD APARTMENTS,

INC., et al., respondents

(and a third-party action).

April 25, 2005.

Amabile & Erman, P.C., Staten Island, N.Y. (Anthony P. Ruffini and [Anthony Lenza](#) of counsel), for appellant.

****905** [Nathan Losman](#) ([Steve S. Efron](#), New York, N.Y., of counsel), for respondent Fountains-Clove Road Apartments, Inc.

Gold Stewart Kravatz & Stone, LLP, Westbury, N.Y. ([Jeffrey B. Gold](#) and [Robert J. Stone, Jr.](#), of counsel), for respondent Aqua Management, Inc.

***624** In an action to recover damages for personal injuries, the ***625** plaintiff appeals, as limited by his brief, from so much of an order of the Supreme Court, Richmond County (Vitaliano, J.), dated March 31, 2004, as granted the separate motions of the defendants Aqua Management, Inc., and Fountains-Clove Road Apartments, Inc., for summary judgment dismissing the complaint insofar as asserted against each of them.

ORDERED that the order is affirmed insofar as appealed from, with one bill of costs.

The plaintiff allegedly was injured when he fell down the stairs of a pool filter room at the defendant Fountains-Clove Road Apartments, Inc. (hereinafter Fountains), after his right foot came into contact with a screwdriver. The defendant Aqua Management, Inc. (hereinafter Aqua), was hired to maintain and supervise the pool. The plaintiff commenced this action to recover damages for personal injuries. After significant disclosure, the Supreme Court granted the separate motions of those defendants for summary judgment

dismissing the complaint insofar as asserted against each of them. We affirm.

In opposition to each defendant's prima facie demonstration of entitlement to judgment as a matter of law, the plaintiff failed to raise a triable issue of fact as to the applicability of the doctrine of res ipsa loquitur (see [Kambat v. St. Francis Hosp.](#), 89 N.Y.2d 489, 655 N.Y.S.2d 844, 678 N.E.2d 456; [Dermatossian v. New York City Tr. Auth.](#), 67 N.Y.2d 219, 501 N.Y.S.2d 784, 492 N.E.2d 1200; [Gurevich v. Queens Park Realty Corp.](#), 12 A.D.3d 566, 784 N.Y.S.2d 397; [Imhotep v. State of New York](#), 298 A.D.2d 558, 750 N.Y.S.2d 87). Thus, the motions were properly granted, and the complaint was properly dismissed.

[H. MILLER](#), J.P., [RITTER](#), [GOLDSTEIN](#) and [CRANE](#), JJ., concur.

17 A.D.3d 624, 792 N.Y.S.2d 904, 2005 N.Y. Slip Op. 03190

Briefs and Other Related Documents (Back to top)

- [2004 WL 3719864](#) (Appellate Brief) Reply Brief of Plaintiff-Appellant (Dec. 14, 2004)
- [2004 WL 3719044](#) (Appellate Brief) Brief for Defendant-Respondent Fountains-Clove Road Apartments, Inc. (Nov. 3, 2004)

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