

Supreme Court of the State of New York
Appellate Division, First Judicial Department

Webber, J.P., Scarpulla, González, Rodriguez, Higgitt, JJ.

6043

KENYA FERNANDEZ,
Plaintiff-Respondent,

Index No. 23542/19
Case No. 2025-03438

-against-

475 BUILDING COMPANY LLC, et al.,
Defendants-Appellants.

Fixler & LaGattuta, LLP, New York (Jason L. Fixler of counsel), for appellants.

David Resnick & Associates, P.C., New York (Philip Monier, III of counsel), for respondent.

Order, Supreme Court, Bronx County (Alison Y. Tuitt, J.), entered on or about May 22, 2025, which denied defendants' motion for summary judgment dismissing the complaint, unanimously affirmed, without costs.

Defendants failed to establish as a matter of law that they did not have constructive notice of the slippery condition on which plaintiff fell (*see Mendoza v Fordham-Bedford Hous. Corp.*, 139 AD3d 578, 578 [1st Dept 2016]; *see also Capers v New York City Hous. Auth.*, 161 AD3d 629 [1st Dept 2018]). Defendants' security officer testified that he inspected the building lobby approximately 30 minutes before plaintiff's accident and that the floor was dry. However, defendants also submitted plaintiff's deposition testimony, at which she testified that the floor was wet when she passed through the lobby during that time. Accordingly, the evidence submitted by defendants shows that there are issues of fact as to whether the floor was wet for approximately 30

minutes or longer before plaintiff's accident (*see Mendoza*, 139 AD3d at 579).

We have considered defendants' remaining arguments and find them unavailing.

THIS CONSTITUTES THE DECISION AND ORDER
OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: March 10, 2026

A handwritten signature in black ink, appearing to read "Susanna M. Rojas". The signature is written in a cursive, flowing style.

Susanna Molina Rojas
Clerk of the Court