Lexis® Context Report

Scott Michael Silberman P.E.

Civil Engineering, Structural Engineering, Construction Accidents

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2021 DAUBTR LEXIS 68843

Daubert Tracker - Case Reports

Expert Name: Scott M. Silberman P.E

Discipline: Engineering; Civil Engin.; Engineering; Structural Engin.; Safety

Case Name: Salinas vs. Dorrians Rest. Bar

Citation: *2021 N.Y. Misc. LEXIS 996; 2021 NY Slip Op 30724(U)*

Docket Number: 152968/2013

Area of Law: Negligence

Jurisdiction: State

Court: New York, Supreme Court

Plaintiff: JACQUELINE SALINAS, Plaintiff

Defendant: DORRIANS RESTAURANT BAR and EIGHT TOTS REALTY CORP., Defendants

Judges: HON. MARGARET A. CHAN, J.S.C.

Opinion by: HON. MARGARET A. CHAN, J.S.C.

Disposition: Testimony not sufficient for grant of summary judgement.

Retained by: plaintiff

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2022 DAUBTR LEXIS 83840

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Manakhimova V. Chon Prop. Corp.

Citation: *; 2016 NY S. Ct. Motions LEXIS 16304*

Docket Number: 702138/14

Area of Law: Premises Liability

Jurisdiction: State

Court: Supreme Court Of New York, Queens County

Counsel: Not Mentioned, O'Connor, O'Connor, Hintz & Deveney, LLP, Ira E. Goldstein Melville, New York

Judges: Not Mentioned

Disposition: Testimony criticized; outcome unknown.

Retained by: plaintiff

Case Summary: According to the Affirmation In Reply, it was stated that It is respectfully submitted that Mr. Silberman's affidavit has no basis in fact and Mr. Silberman's opinion is therefore worthless. As such, since the resulting opinions are speculative and conclusory the plaintiffs' expert's opinion is insufficient to raise an issue of fact. It was further stated that Since plaintiff's expert Scott Silberman's affidavit fails to consider plaintiff's actual testimony, ALL OF HIS FINDINGS ARE WORTHLESS and the expert opinion must be disregarded in its entirety. The outcome of the criticism is unknown.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 83837

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Kesner V. Starwood Hotels & Resorts Worldwide, Inc.

Citation: ; 2009 WL 7455009;2009 WL 7455010;2010 WL 5827496

Docket Number: 2008-100931

Area of Law: Personal Injury

Jurisdiction: State

Court: Supreme Court Of New York, New York County

Counsel: Stephen J. Levy, Gail K. McCallion, Jones Hirsch Connors & Bull P.C.

Judges: Paul G. Feinman

Disposition: Testimony sufficient to defeat grant of motion for summary judgment in part.

Retained by: plaintiff

Case Summary: Plaintiff filed its expert Silbermans testimony in opposition to Defendants motion for summary judgment. The Court granted in part and denied in part the motion for summary judgment.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 83828

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Gloria CLARK V. JAY REALTY CORP. Guiding Eyes for the Blind Inc.

Citation: ; 2011 WL 13371959;2011 WL 13381098

Docket Number: 104820/2009

Area of Law: Personal Injury

Jurisdiction: State

Court: Supreme Court of New York. New York County

Counsel: Marius C. Wesser, Noah Katz, Lester Schwab Katz & Dwyer, LLP, 120 Broadway, New York, New York 10271, (212) 964-6611

Judges: Marcy S. Friedman

Disposition: Testimony criticized; outcome unknown.

Retained by: defendant

Case Summary: According to the Defendant Jay Realty Corp.'s Memorandum in Reply to Defendants' Guiding Eyes for the Blind, Inc. And James Gardner's Opposition and in Further Support of Its Motion for Summary Judgment, it was stated that As this Court is well-aware, speculation concerning causation does not create a triable issue of fact. Moreover, an expert may not base his opinions on proof which is not in the record. Here, Guiding Eyes and Gardner admit in their cross-motion that neither Clark, nor Gardner know where her feet were positioned when she fell. They have no knowledge whether her foot struck something on Jay Realty's property and whether that something was a dangerous or defective condition. Indeed, Guiding Eyes and Gardner are simply requesting that this Court speculate that the something was located in front of Jay Realty's building and a dangerous condition. For these same reasons, Silberman's affidavit lacks any support in the record. The outcome of the criticism is unknown.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 83816

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Braudy V. Best Buy Co., Inc.

Citation: ; 2008 WL 7929362;2008 WL 8061066;2008 WL 8069410;2008 WL 8069411

Docket Number: 19383/06,2008-07208

Area of Law: Negligence

Jurisdiction: State

Court: Supreme Court, New York, Westchester County, Supreme Court, Appellate Division, Second Department, New York

Counsel: David S. Klausner, PLLC, White Plains, N.Y., Simmons, Jannace & Stagg, LLP, Syosset, N.Y. (Sal F. DeLuca of counsel)

Judges: Mary H. Smith, J.S.C.

Disposition: Testimony challenged; outcome unknown.

Retained by: plaintiff

Case Summary: The outcome of Defendants challenge regarding Plaintiffs expert Silbermans testimony is unknown.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 83805

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: BLATTENBERGER V. CITY OF BUFFALO - PUBLIC WORKS DEPARTMENT

Citation: ; 2005 WL 5713082;2005 WL 5713083;2005 WL 5749205;2006 WL 4693722;2006 WL 4693723;2006 WL 4693725

Docket Number: 06-00523,1149,6163/1999

Area of Law: Personal Injury

Jurisdiction: State

Court: Supreme Court, New York. Erie County, Supreme Court, Appellate Division, Fourth Department, New York

Counsel: John A. Collins, Esq., Lipsitz, Green, Fahringer, Roll, Salisbury & Cambria LLP, Anthony J. Tantillo, Esq., John E. Abeel, Esq., Of Counsel, Hagelin Kent, LLC

Judges: John M. Curran, Robert G. Hurlbutt, Henry J. Scudder, Salvatore Richard Martoche

Disposition: Affidavit sufficient to defeat grant of motion for summary judgment in part at trial; outcome of appeal is unknown.

Retained by: plaintiff

Case Summary: Plaintiff had filed its expert Silberman's affidavit in opposition to Defendant's motion for summary judgment. The trial Court granted in part and denied in part the motion for summary judgment. The outcome of appeal is unknown.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 83799

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Volpe V. Hudson View Associates, LLC

Citation: *; 109 A.D.3d 814;2011 WL 11012676;2011 WL 11012681;2011 WL 11012690;2011 WL 11075274;2012 WL 12930794;2012 WL 9495927;2013 N.Y. App. Div. LEXIS 5754;2013 NY Slip Op 5814;2013 WL 5965616;971 N.Y.S.2d 140*

Docket Number: 2011-614,2012-00803

Area of Law: Personal Injury

Jurisdiction: State

Court: Supreme Court, New York, Westchester County, Supreme Court, Appellate Division, Second Department, New York

Counsel: Edelman, Krasin & Jaye, PLLC, Mound Cotton Wollan & Greengrass

Judges: Mary H. Smith

Disposition: Testimony found insufficient to defeat grant of motion for summary judgment at trial; affirmed on appeal.

Retained by: plaintiff

Case Summary: Plaintiff had filed its expert Silbermans testimony in opposition to Defendants motion for summary judgment. The Court granted the motion at trial. The judgment was affirmed on appeal.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 83715

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Jones V. The City Of New York

Citation: ; 2011 WL 11166400;2011 WL 11523975;2011 WL 11544570

Docket Number: 0021342/2006

Area of Law: Negligence

Jurisdiction: State

Court: Supreme Court, New York, Bronx County

Counsel: Peter LoDuca, MacCartney, MacCartney, Kerrigan & MacCartney, Attorneys and Counsellors At Law, 13 North Broadway, Post Office Box 350, Nyack, New York 10960, Tel: (845) 358-0074

Judges: Mitchell J. Danziger

Disposition: Testimony insufficient to defeat motion for summary judgment.

Retained by: plaintiff

Case Summary: Plaintiff filed its expert Silberman's testimony in opposition to Defendants motion for summary judgment. The Court granted Defendants motion for summary judgment.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 83713

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: HUMPHREY V. MERIVIL

Citation: *; 109 A.D.3d 792;2012 WL 12969741;2013 N.Y. App. Div. LEXIS 5740;2013 NY Slip Op 5799;971 N.Y.S.2d 211*

Docket Number: 2012-04291

Area of Law: Personal Injury

Jurisdiction: State

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

Counsel: David DeToffol, Esq., DeToffol & Associates, Attorneys at Law, 30 Broad Street, 35th floor, New York, N.Y. 10004, Tel. (212) 962-2220, John M. Denby, Esq., Devitt Spellman Barrett, LLP, 50 Route 111-Suite 314, Smithtown, New York 11787-3734, (631) 724-8833

Judges: RIVERA, SKELOS, CHAMBERS, AUSTIN

Disposition: Testimony found insufficient to defeat grant of motion for summary judgment at trial; affirmed on appeal.

Retained by: plaintiff

Case Summary: Plaintiff had filed its expert Silberman's testimony in opposition to Defendant's motion for summary judgment. The Court granted the motion for summary judgment at trial. The judgment was affirmed on appeal.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 83686

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Sebastiano V. New York City Tr. Auth.

Citation: *; 2010 N.Y. Misc. LEXIS 6906;2010 NY Slip Op 33878(U);2010 WL 7367237;2011 WL 12484000;2011 WL 12526865;2014 WL 4380118;86 A.D.3d 432*

Docket Number: 20936/05,5511-12

Area of Law: Personal Injury

Jurisdiction: State

Court: Supreme Court, Appellate Division, First Department, New York, Supreme Court Of New York, Bronx County

Counsel: The Breakstone Law Firm, P.C., 2698 Boundary Road, Bellmore, New York 11710, (516) 781-7734, Nyappeals@Gmail.Com, Bamundo, Zwal & Schermerhorn, LLP, Armienti, Debellis, Guglielmo & Rhoden, LLP, 39 Broadway, Suite 520, New York, New York 10006, (212) 809-7074, Vcorchia@Adgrlaw.Com, Wallace D. Gossett

Judges: Wilma Guzman, Andrias, Sweeny, Renwick, Freedman, ManzanetDaniels

Disposition: Testimony improperly admitted.

Retained by: plaintiff

Case Summary: According to its decision dated January 5, 2010 the Court observed that As no proof was presented by the Plaintiffs expert as to when the building was constructed, any reference to the applicability of the city building codes made by Mr. Silberman should have been precluded. Where an expert witness fails to testify as to the year of construction, as in Barbul and the instant case, the remedy is preclusion of that expert's testimony as to the Building Codes applicability. The trial Court properly precluded Plaintiff's expert from referring to the New York City Building Code, since there was no proof of the year the subject building and ramp were constructed and thus no foundation for the applicability of different versions of the Code and its individual provisions. In the instant case, Plaintiff's expert's testimony should have been precluded as to the Building Code violations. As such, the submission of the statutory violations to the jury was in error As noted above the jury verdict indicated that liability was found only as to the statutory violations. The Court held that ORDERED that the Defendants motion to set aside the verdict is hereby granted. It is further ORDERED that the jury's verdict is set aside and a new trial is ordered. According to the Reply Brief For Defendant-Appellant-Respondent it was stated that Having been raised by Plaintiff to avoid what it could not refute, i.e., that Plaintiff proffered no proof as to when the stairway was built and therefore, there was no foundation for the testimony of Mr. Silberman on the issue, and therefore, the Court below was correct in her post-verdict observations regarding same. It was further stated that Again, this is all adrift from the inescapable conclusion that the Court below was correct in finding that Plaintiff did not offer proof as to when the stairway was built, Silberman should not have been permitted to testify concerning the violations and that Plaintiff failed to prima facie establish the statutory claim. According to its decision dated July 7, 2011 the Appellate Court concluded that Order, Supreme Court, Bronx County (Wilma Guzman, J.), entered January 13, 2010, which granted Defendant's posttrial motion to set aside the jury verdict in favor of Plaintiffs on the statutory claim and directed a new trial, unanimously modified, on the law, judgment granted in favour of Defendant as to the statutory claim, and otherwise affirmed, without costs. The Clerk is directed to enter judgment dismissing the complaint.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 83677

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: BAUER V. 196 OWNER'S CORP

Citation: ; 2018 WL 7376954

Docket Number: 158384/2015

Area of Law: Tort Law (NEC)

Jurisdiction: State

Court: Supreme Court of New York. New York County

Counsel: HECHT, KLEEGER & DAMASHEK, WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP

Judges: Lucy Adams Billings

Disposition: Testrimony challenged; outcome unknown.

Retained by: plaintiff

Case Summary: Plaintiff filed its expert Silberma's testimony in opposition to Defendant's motion for summary judgment. According to Defendant 196 Owner's Corp.'s Reply Memorandum of Law in Further Support of Its Motion for Summary Judgment it was stated that Relatedly, Mr. Silberman fails to establish an adequate foundation for his opinion about constructive notice because he fails to explain his method of reaching his conclusion and demonstrate that such method is reliable. Specifically, while Mr. Silberman rests his opinion on his belief that the degree of wear on the concrete surface shows the indentation has been on the sidewalk for a significant amount of time, he has failed to offer any data, testing or analysis to support this conclusion. See Silberman Aff. at 11. This is a fatal flaw in his opinion. The outcome of the motion for summary judgment and the outcome of the challenge is unknown.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 83628

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Martinez V. Ista W. 35th St. LLC

Citation: *; 2022 N.Y. Misc. LEXIS 150;2022 NY Slip Op 30083(U);2022 WL 124933*

Docket Number: 152741/15

Area of Law: Personal Injury

Jurisdiction: State

Court: Supreme Court of New York, New York County

Counsel: Not Mentioned, Not Mentioned

Judges: Sabrina B. Kraus

Disposition: Affidavit insufficient to defeat grant of motion for summary judgment.

Retained by: plaintiff

Case Summary: Plaintiff filed its expert Silberman's affidavit in opposition to Defendant's motion for summary judgment. The Court granted the motion for summary judgment.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 83627

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Richardson V. Villacon Realty Corp.

Citation: *; 2007 WL 9221177;2008 N.Y. Misc. LEXIS 8046;2008 NY Slip Op 31175(U);2008 WL 10665711;2008 WL 1881560*

Docket Number: 1052012006

Area of Law: Personal Injury

Jurisdiction: State

Court: Supreme Court Of New York, New York County

Counsel: Pat James Crispi, Elysa Beth Wolfe

Judges: Joan A. Madden

Disposition: Testimony criticized; outcome unknown

Retained by: plaintiff

Case Summary: According to Reply Affirmation it was found that In the instant action, plaintiffs have provided no concrete evidence regarding Mr. Silberman's skill, training, knowledge or experience except that he is a professional engineer licensed by the State of New York. Mr. Silberman is a licensed professional engineer but proffers no evidence or explanation of his education, training or knowledge regarding the subject matters discussed in his affidavit or any experience in the subject matter. Plaintiff has failed to establish that Mr. Silberman has any knowledge of or expertise necessary to render any opinion in this matter. As Plaintiff has failed to establish that Mr. Silberman has the requisite qualifications or to even annex his curriculum vitae to be considered an expert witness, the affidavit of Mr. Silberman must be disregarded. The outcome of the criticism is unknown.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 83625

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Truncellito V. Carroll's Florist Corp.

Citation: ; 2009 WL 8626114;2010 WL 8741523;2010 WL 8741525;2010 WL 8741526

Docket Number: 1036122007

Area of Law: Premises Liability

Jurisdiction: State

Court: Supreme Court Of New York, Richmond County

Counsel: Simonson & Cohen, LLP, James R. Cohen, 4060 Amboy Road, Staten Island, NY 10308, (718) 948-2100, The Law Office Of James J.Toomey, By: Kevin J. Spencer, Office & P.O. Address, 485 Lexington Avenue, 7th Floor, New York, New York 10017, (917) 778-6600, Matter No.: 0943055/Kjs

Judges: Joseph J. Maltese

Disposition: Testimony filed in opposition to motion for summary judgment; outcome unknown.

Retained by: plaintiff

Case Summary: Plaintiff filed its expert Silberman's testimony in opposition to Defendants motion for summary judgment. The outcome of Defendants motion for summary judgment is unknown.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 83615

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Ascher V. Target Corp.

Citation: *; 2007 U.S. Dist. LEXIS 84015;2007 WL 4141846;522 F. Supp. 2d 452*

Docket Number: 1:05cv4826

Area of Law: Personal Injury

Jurisdiction: Federal

Court: United States District Court for the Eastern District of New York

Counsel: Herbert William Fischman, John P. Connors , Jr.

Judges: Ramon E. Reyes, Jr

Disposition: Testimony inadmissible.

Retained by: plaintiff

Case Summary: Plaintiff Barbara Ascher brought this action against defendant Target Corporation for injuries she allegedly sustained when, while shopping at the Target store, a saute pot fell off a display and onto her right foot. Ascher alleged that Target created or allowed a hazardous condition to exist on its premises, and that it had constructive notice of the unsafe condition that caused her injuries. Target moved for summary judgment, arguing that Ascher could not establish the existence of any dangerous or defective condition and that, even conceding the existence of such a condition, there was no showing of either actual or constructive knowledge. Target also argued that Ascher's expert, Scott Silberman, submitted a report which failed to create an issue of fact with respect to the alleged dangerous condition because it was based on insufficient data and assumptions of fact contrary to those established in the record. The Court agreed with Target that Ascher failed to establish the cause of the accident and Ascher failed to establish the existence of a defect or hazardous condition, noting that Ascher's theories regarding Target's liability rested upon mere speculation and conjecture. The Court also found that Silberman's report did not provide sufficient evidence to establish that a dangerous or defective condition existed. The Court found that Silberman lacked sufficient training and experience to qualify as an expert in safety in the retail environment, and therefore the Court rejected Silberman as an expert in this case. The Court also found that, even were the Court to accept Silberman as an expert on safety in the retail environment, his opinion that a pot slid off the lectern and fell on Ascher's toe due to a hazardous condition created by Target was not based on sufficient facts or data. The Court found that Silberman's opinion was based on mere speculation and was insufficient to overcome Target's well-pleaded motion for summary judgment. Thus, Defendant's motion for summary judgment was granted and plaintiff's complaint was dismissed in its entirety.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 83607

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: GOLDENFELD v. EURO COMFORT FURNITURE

Citation: *; 2007 WL 5036401;2008 N.Y. App. Div. LEXIS 1344;2008 NY Slip Op 1302;48 A.D.3d 515;852 N.Y.S.2d 254*

Docket Number: 2007-04023

Area of Law: Personal Injury

Jurisdiction: State

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

Counsel: Bamundo, Zwal & Schermerhorn, LLP, Gannon, Rosenfarb & Moskowitz

Judges: PETER B. SKELOS, STEVEN W. FISHER, MARK C. DILLON, WILLIAM E. McCARTHY

Disposition: Testimony admissible at trial; affirmed on appeal.

Retained by: plaintiff

Case Summary: According to Brief for Plaintiff-Respondent it was found that Defendant-appellant argues that engineer Scott Silberman offers speculation regarding the functionality of handrails during plaintiff-respondent's fall. Further, Plaintiff had filed its expert Silberman's testimony in opposition to Defendant's motion for summary judgment. The Court denied the motion for summary judgment at trial. The judgment was affirmed on appeal.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 83592

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Sylvester V. Mount Hope Universal Baptist Church, Inc.

Citation: *; 2017 NY S. Ct. Motions LEXIS 36535*

Docket Number: 505842/2016

Area of Law: Premises Liability

Jurisdiction: State

Court: Supreme Court Of New York, Kings County

Counsel: Raymond Ardito, Esq., Ardito Law Firm, P.C., NY, Gold Benes, LLP, Bellmore, NY

Judges: Carl Landicino

Disposition: Testimony filed in opposition to motion for summary judgment; outcome unknown.

Retained by: plaintiff

Case Summary: Plaintiff filed its expert Silbermans testimony in opposition to Defendants motion for summary judgment. The outcome of the motion is unknown.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 83572

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: WILLIAMS V. FORWARD REALTY CORP.

Citation: *; 156 N.Y.S.3d 159;198 A.D.3d 503;2021 N.Y. App. Div. LEXIS 5696;2021 NY APP. DIV. BRIEFS LEXIS 1577;2021 NY APP. DIV. BRIEFS LEXIS 1586;2021 NY APP. DIV. BRIEFS LEXIS 1627;2021 NY Slip Op 05658;2021 WL 5040158*

Docket Number: 2020-03595

Area of Law: Negligence

Jurisdiction: State

Court: SUPREME COURT OF NEW YORK, APPELLATE DIVISION, FIRST DEPARTMENT

Counsel: Finkelstein & Partners, LLP, FITZPATRICK & HUNT, PAGANO, AUBERT, LLP

Judges: Gische, Moulton, Gonzlez, Kennedy, Scarpulla

Disposition: Testimony admitted at trial; affirmed on appeal.

Retained by: plaintiff

Case Summary: According to Brief for Defendant-Appellant it was found that The Trial Court also incorrectly accepted plaintiff's engineer's conclusory opinion about the existence of a defect on the subject slab despite his reliance upon inadmissible photographs. Mr. Silberman concluded that a defect existed and that Appellant Forward had constructive notice of the defect based upon his review of photographs which were not authenticated by any witness. His opinion should not have sufficed to raise triable issues of fact as to whether a defect existed or whether Forward was negligent in the maintenance of the premises by failing to observe the purported condition. It was further found that Mr. Ettari opined that Plaintiff's weight overloaded the sidewalk by over four times the live load which is prescribed by the New York City 1968 Building Code. The Trial Court, however, improperly rejected Mr. Ettari's opinion, and in doing so tacitly accepted Plaintiff's expert's opinion, which relied both on an incorrect version of the New York City Building Code and miscalculated the amount of weight the subject sidewalk was required to support. Thus, Mr. Silberman's opinion has no probative value and was insufficient to defeat Appellant's motion for summary judgment. The judgment was affirmed on appeal.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 83540

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Michael Lewis V. Nir Abraham Et Al

Citation: *; 2020 N.Y. Misc. LEXIS 1245;2020 NY Slip Op 30789(U);2020 WL 1229981*

Docket Number: 151490/2017

Area of Law: Negligence

Jurisdiction: State

Court: New York State, New York County, Supreme Court

Counsel: Randolph D. Janis, Scott F. Morgan

Judges: Sherry K. Heitler

Disposition: Testimony filed in opposition to motion for summary judgment; outcome unknown.

Retained by: plaintiff

Case Summary: Plaintiff filed its expert Silbermans testimony in opposition to Defendants motion for summary judgment. The outcome of the motion is unknown.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 83526

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: WILLIAMS V. PEREZ

Citation: ; 2016 WL 11541448;2016 WL 11541449;2016 WL 11541450

Docket Number: 2016-03033

Area of Law: Personal Injury

Jurisdiction: State

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

Counsel: David J. DeToffol, DeToffol & Associates, Attorneys at Law, 30 Broad Street 35th floor, New York, New York 10004, Tel. (212) 962-2220, William T. Ryan, William J. Fay, of Counsel, Ryan Perrone & Hartlein, P.C., 200 Old Country Road, Suite 300, Mineola, New York 11501, (516) 248-8610

Judges: MARK C. DILLON

Disposition: Testimony permitted at trial; outcome of appeal is unknown.

Retained by: plaintiff

Case Summary: According to the Appellant's Brief, it was stated that Further, the issue for voir dire is the admissibility of an expert and his opinions based upon his qualifications as an expert, on which expert Silberman was never challenged for his competent and experience in his field. Instead this voir dire was ultimately used as an immediate means to raise and grant a Frye preclusion motion for whether the expert's opinion was reliable based upon his utilized methodology. Despite the ambush Frye voir dire, expert Silberman withstood the Frye analysis concerning his methodology. The lower court ought to have permitted him to testify to the jury about code selection, use, and their bearing on the subject staircase construction, where defense could then cross examine his methods before the jury. The outcome of appeal is unknown.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 83513

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Frank BRUNO V. 732 AMSTERDAM TAVERN INC.

Citation: ; 2008 WL 11279556;2008 WL 4461416

Docket Number: 01111232005

Area of Law: Personal Injury

Jurisdiction: State

Court: Supreme Court of New York. New York County

Counsel: David M. Nicholson, Ernest J. Peck - 4730, Downing & Peck, P.C., 5 Hanover Square - 20th Floor, New York, New York 10004, 212-514-9190

Judges: Michael D. Stallman

Disposition: Testimony sufficient to defeat grant of motion for summary judgment in part.

Retained by: plaintiff

Case Summary: Plaintiff filed its expert Silberman's testimony in opposition to Defendant's motion for summary judgment. The Court granted in part and denied in part the motion for summary judgment.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 83504

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Manning V. Tracy J's, Inc.

Citation: *; 2007 WL 4845975;2007 WL 5390985;2007 WL 5390986;2008 U.S. Dist. LEXIS 31914*

Docket Number: 1:06cv956

Area of Law: Premises Liability

Jurisdiction: Federal

Court: United States District Court For The Southern District Of New York

Counsel: Robert Vincent Kaminski, Jr., Lead Attorney, Robert Kaminski, Pllc, New York, NY, Terrance Joseph Ingrao, Purcell & Ingrao, P.C., Mineola, NY

Judges: Debra Freeman

Disposition: Testimony sufficient to defeat motion for summary judgment in part.

Retained by: plaintiff

Case Summary: Plaintiff filed its expert Silbermans testimony in opposition to Defendants motion for summary judgment. The Court granted in part and denied in part Defendants motion for summary judgment.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 83473

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: PASIEKA V. LBP LIDO BLVD LLC & HEMPSTEAD

Citation: *; 2016 NY S. Ct. Motions LEXIS 15853;2017 NY S. Ct. Motions LEXIS 4036*

Docket Number: 601539/2014

Area of Law: Negligence

Jurisdiction: State

Court: SUPREME COURT OF NEW YORK, NASSAU COUNTY

Counsel: Paris & Chaikin, PLLC, JONATHAN D. GORHAM; Joseph J. Ra, Esq.

Judges: McCormack

Disposition: Testimony filed in support of motion for summary judgment; outcome unknown.

Retained by: plaintiff

Case Summary: Plaintiff filed its expert Silberman's testimony in support of its motion for summary judgment. The outcome of the motion is unknown.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 83445

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Paramjit Singh V. 911 LLC

Citation: ; 2019 WL 7834299

Docket Number: 509401/2017

Area of Law: Negligence

Jurisdiction: State

Court: New York State, Kings County, Supreme Court

Counsel: Pat J. Crispi, Kenneth B. Danielsen

Judges: Devin P. Cohen

Disposition: Testimony filed in opposition to motion for summary judgment; outcome unknown.

Retained by: plaintiff

Case Summary: Plaintiff filed its expert Silbermans testimony in opposition to Defendants motion for summary judgment. The outcome of the motion is unknown.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 83404

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Gaetano, V. 465 Columbus

Citation: ; 2012 WL 11947590;2012 WL 11947592

Docket Number: 112292010

Area of Law: Premises Liability

Jurisdiction: State

Court: Supreme Court Of New York, Westchester County

Counsel: Howard Schatz, Heath A. Bender

Judges: Gerald E. Loehr

Disposition: Testimony filed in opposition to motion for summary judgment; outcome unknown.

Retained by: plaintiff

Case Summary: Plaintiff filed its expert Silberman's testimony in opposition to Defendants motion for summary judgment. The outcome of Defendants motion for summary judgment is unknown.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 83372

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Rodriguez V. 565 Realty Co., LLC

Citation: ; 2009 WL 10312984

Docket Number: 1104002006

Area of Law: Negligence

Jurisdiction: State

Court: Supreme Court Of New York, New York County

Counsel: Alex Muller, Esq., Jose Rodriguez, 325 Broadway, Suite 402, New York, N.Y. 10007, (212) 271-0214, Shanna R. Torgerson, Of Counsel, Havkins Rosenfeld Ritzert & Varriale, LLP, 565 Realty Co., LLC And Abro Management Corp., Eleven Penn Plaza- Suite 2101, New York, New York 10001, (212) 488-1598, File No. 2730-212

Judges: Walter B. Tolub

Disposition: Objection regarding testimony filed; outcome unknown.

Retained by: plaintiff

Case Summary: The outcome of Defendants objection regarding Plaintiffs expert Silbermans testimony is unknown.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 83370

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Owusu V. LSS Leasing Limited Liability Company

Citation: *; 2008 WL 8598601;2009 N.Y. App. Div. LEXIS 5838;2009 NY Slip Op 6009;64 A.D.3d 759;883 N.Y.S.2d 301*

Docket Number: 2007-09822

Area of Law: Personal Injury

Jurisdiction: State

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

Counsel: Wingate, Russotti & Shapiro, LLP, Shanker & Shanker, P.C., 420 Lexington Avenue, Suite 2750, New York, New York 10170, (212) 986-7353, Weiner, Millo & Morgan, LLC, 220 Fifth Avenue, 10th Floor, New York, New York 10001, (212) 213-1220

Judges: Peter B. Skelos, Steven W. Fisher, Ariel E. Belen, Plummer E. Lott

Disposition: Testimony properly found insufficient to defeat grant of motion for summary judgment at trial; affirmed on appeal.

Retained by: plaintiff

Case Summary: Plaintiff had filed its expert Silberman's testimony in opposition to Defendant's motion for summary judgment. The Court granted the motion at trial. The judgment was affirmed on appeal.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 83360

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Singh V. Nycha

Citation: *; 2019 N.Y. Misc. LEXIS 1726;2019 NY Slip Op 50540(U);2019 NYLJ LEXIS 1315;63 Misc. 3d 1215(A)*

Docket Number: 21536-2013

Area of Law: Personal Injury

Jurisdiction: State

Court: Supreme Court Of New York, Bronx County

Counsel: Pat James Crispi, Keogh Crispi, P.C., New York, NY, Kelly A. McGee, Goldberg Segalla LLP, New York, NY

Judges: Llinet Rosado

Disposition: Testimony insufficient to win cross-motion for summary judgment.

Retained by: plaintiff

Case Summary: Plaintiff filed its expert Silbermans testimony in support of its cross-motion for summary judgment. The Court denied the motion.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 83312

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Vega Nova V. Metropolitan Transportation

Citation: ; Not Applicable

Docket Number: 0100629/2011

Area of Law: Personal Injury

Jurisdiction: State

Court: NY Supreme - New York

Counsel: Ruth E. Bernstein Law Firm, Landman Corsi Ballaine & Ford

Judges: Geoffrey D. Wright, Michael D. Stallman

Disposition: Motion to preclude filed; outcome unknown.

Retained by: plaintiff

Case Summary: The outcome of Defendant's motion to preclude Plaintiff's expert Silberman's testimony is unknown.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 83296

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: MCCOY V. 43-25 HUNTER L.L.C.

Citation: ; 2020 WL 4561229

Docket Number: 161038/2015

Area of Law: Negligence

Jurisdiction: State

Court: Supreme Court of New York. New York County

Counsel: Not Mentioned, Alisa Dultz, Esq., Fabiani, Cohen & Hall, LLP, 570 Lexington Avenue, 4th Floor, New York, New York 10022, (212) 644-4420

Judges: Robert D. Kalish

Disposition: Testimony criticized; outcome unknown.

Retained by: plaintiff

Case Summary: According to the Defendants' Reply Memorandum of Law in Support of Defendants' Motion for Summary Judgment, it was stated that The plaintiff erroneously attempts to rely on Mr. Silberman's expert opinion in this case. His attempt is legally impermissible because Mr. Silberman's expert opinion is based on facts not in evidence and thus is inadmissible hearsay. See, e.g., Soho Generation of New York, Inc. v. Tri-City Ins. Brokers, Inc., 256 A.D.2d 229 (1st Dept. 1998). Here, there is not even an affidavit from Silberman that is part of the plaintiff's motion. The plaintiff simply relies on what the trial court states that Silberman found. The outcome of the criticism is unknown.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 83263

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Lance V Den-Lyn Realty Corp

Citation: *; 2010 N.Y. Misc. LEXIS 6651;2010 NY Slip Op 52411(U);2011 WL 12524910;2011 WL 1675632*

Docket Number: 18982/2007,4986

Area of Law: Premises Liability

Jurisdiction: State

Court: Supreme Court Of New York, Bronx County, Supreme Court, Appellate Division, First Department, New York

Counsel: George Garafola, Esq., Silbowitz, Garafola & Assoc., New York, NY, R. Bradford Thelander, Esq., Wade Clark Mulcahy Law Office, New York, NY

Judges: Betty Owen Stinson

Disposition: Testimony properly found insufficient to defeat motion for summary judgment; affirmed.

Retained by: plaintiff

Case Summary: According to the Brief For Plaintiff-Appellant, it was stated that Plaintiff also submitted an affidavit from Scott Silberman, an engineering expert and his report in opposition to the motion. 265-268 Mr. Silberman opined that the numerous steps that came loose over time prior to Ms. Lance's accident was evidence of a poorly maintained stairway or improperly placed steps. Given the magnitude of treads that were loose at any given time, nit was an indication of a recurring condition that defendant should have investigated and corrected. plaintiff's expert also opined that the defendant had violated the New York City Building Code/Administrative Code and the Multiple Dwelling Law, regarding proper maintenance of interior stairways and treads. (267-268 It was further stated that The lower court granted defendant's motion holding that it had established its entitlement to judgment as a matter of law by demonstrating that it had neither actual, nor constructive notice of the condition which allegedly caused plaintiff's injuries. The trial Court improperly credited the testimony of Mr. Mack, who claimed that, he was never notified of any defect and never even saw the broken stair plaintiff claimed caused her fall after the incident, although he asked her to show it to him. 10-11 This was directly contradicted by Ms. Lance's testimony who stated that the next day, she showed Julio the broken step, who picked it up and examined it, and that several days later, she showed Mr. Mack where the broken step was located. The judgment was affirmed.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 83235

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: ALEXANDRE v. CITY OF NEW YORK

Citation: ; 2002 WL 32723795

Docket Number: 2001-08838

Area of Law: Personal Injury

Jurisdiction: State

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

Counsel: Harding & Moore, ESQS., Hammill, O'Brien, Croutier, Dempsey & Pender, P.C.

Judges: Not Mentioned

Disposition: Testimony found sufficient to defeat grant of motion for summary judgment at trial; outcome of appeal is unknown.

Retained by: plaintiff

Case Summary: Plaintiff had filed its expert Silberman's testimony in opposition to Defendant's motion for summary judgment. The Court denied the motion for summary judgment at trial. The outcome of appeal is unknown.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 83234

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Georgiou V. 32-42 Broadway LLC

Citation: *; 2009 WL 8598662;2010 WL 9583556;2010 WL 9583557;2010 WL 9899656;2011 N.Y. App. Div. LEXIS 2088;2011 NY Slip Op 2133;82 A.D.3d 606;920 N.Y.S.2d 36*

Docket Number: 2005-08095,4354,8095-05,85687/06

Area of Law: Personal Injury

Jurisdiction: State

Court: Supreme Court Of New York, Supreme Court, Appellate Division, First Department, New York

Counsel: Richard J. Katz, LLP, French & Casey, LLP

Judges: Mary Ann Brigantti-Hughes

Disposition: Testimony found sufficient to defeat grant of motion for summary judgment; reversed on appeal.

Retained by: plaintiff

Case Summary: Plaintiff had filed its expert Silbermans testimony in opposition to Defendants motion for summary judgment. The Court denied the motion at trial. The judgment was reversed on appeal.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 83207

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Laila Sara V. Kalliopi Notias Et Al

Citation: ; Not Applicable

Docket Number: 507197/2017

Area of Law: Wrongful Death

Jurisdiction: State

Court: New York State, Kings County, Supreme Court

Counsel: James P. Fitzgerald, William Arthur Prinsell

Judges: Not Mentioned

Disposition: Testimony filed in opposition to motion for summary judgment; outcome unknown.

Retained by: plaintiff

Case Summary: Plaintiff filed its expert Silbermans testimony in opposition to Defendants motion for summary judgment. The outcome of the motion is unknown.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 83144

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: MELENDEZ V. UNITED CHURCH

Citation: ; 2011 WL 11524207

Docket Number: 3000122008

Area of Law: Personal Injury

Jurisdiction: State

Court: Supreme Court of New York. Bronx County

Counsel: Not Mentioned, Christopher Coleman

Judges: Mitchell J. Danziger, Barry Salman

Disposition: Testimony criticized.

Retained by: plaintiff

Case Summary: According to Affirmation in Support it was stated that Plaintiff named Scott Silberman, PE of SMS Engineering, PC as his liability expert. Plaintiff'ss Expert Witness Exchange is annexed as Exhibit E. In Mr. Silberman's opinion, UNITED CHURCH violated section 153.6 of the NYC Building Code (1916), section C26-292.0(1) of the NYC Building Code (1938) and section 27-375(f) of the NYC Building Code (1968) since the handrails were not provided on both sides of the stairway. He also opined that section 154 of the NYC Building Code (1916), section C26-292.0 of the NYC Building Code (1938) and section 27-376 of the NYC Building Code (1968) were violated since the exterior stairs were used as exits in lieu of interior stairs and did not conform to the requirements for interior stairs. Mr. Silberman fails to acknowledge that the building was constructed in 1906, and predates all cited codes. He also failed to state any code applicable to the metal grate.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 83139

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Rojecki V. Genting New York Llc

Citation: *; 2018 NY S. Ct. Motions LEXIS 3308;2018 NY S. Ct. Motions LEXIS 45605;2018 NY S. Ct. Motions LEXIS 45643;2018 WL 11380303;2018 WL 11380304;2018 WL 11380305;2018 WL 11380859*

Docket Number: 604860/2016

Area of Law: Premises Liability

Jurisdiction: State

Court: Supreme Court Of New York, Nassau County

Counsel: Sanders, Sanders, Block, Woycik, Viener & Grossman, P.C., Joseph B. Viener, Esq., Mineola, New York, Wilson, Elser, Moskowitz, Edelman & Dicker, Llp, Gabriella E. Varobey, Genting New York Llc D/B/A Resorts World Casino, New York City, New York, New York

Judges: Not Mentioned

Disposition: Testimony filed in opposition to motion for summary judgment; motion granted.

Retained by: plaintiff

Case Summary: Plaintiff filed its expert Silbermans testimony in opposition to Defendants motion for summary judgment. The Court granted the motion.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 83121

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Contardo V. JCK Management Corp.

Citation: ; 2008 WL 8015053;2008 WL 8015055

Docket Number: 13602/06

Area of Law: Personal Injury

Jurisdiction: State

Court: Supreme Court Of New York, Kings County

Counsel: Silbowitz, Garafola, Silbowitz, Law Offices Of James R. Pieret & Associates, Patrick B. Mc Keown, 400 Garden City Plaza, Garden City, NY 11530, (516) 512-6590

Judges: Not Mentioned

Disposition: Testimony filed in opposition to cross-motion for summary judgment; outcome unknown.

Retained by: plaintiff

Case Summary: Plaintiff filed its expert Silbermans testimony in opposition to Defendants cross-motion for summary judgment. The outcome of the cross-motion is unknown.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 83112

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Deykina V. Chattin

Citation: *; 2014 U.S. Dist. LEXIS 129011*

Docket Number: 1:12cv2678

Area of Law: Personal Injury

Jurisdiction: Federal

Court: United States District Court for the Eastern District of New York

Counsel: Norman S. Langer, Joshua S Shteierman

Judges: Allyne R. Ross, Cheryl L. Pollak

Disposition: Testimony admitted.

Retained by: plaintiff

Case Summary: According to the decision dated September 15, 2014, it was stated that Defendant argues that the court should not consider Silberman's expert report. Defendant contends that Silberman's assertions are speculative or unsupported by any evidentiary foundation because he relied on building codes that were not in effect when the house was built. Def.'s Mem. of Law in Supp. of Mot. for Summ. J. (Def's Mem.), Dkt. #32, Ex. 11, at 10-11. Defendant also argues that expert testimony is inappropriate in this case because an assessment of whether the stairs were defective does not require professional or scientific knowledge or skill that is outside the range of ordinary training or intelligence. Id. at 12. Both of these contentions are without merit. Silberman based his conclusions on his training and experience as an engineer, and he has been qualified as an expert witness in numerous cases. Silberman's report did not suggest that the 2000 and 2009 building codes constituted enforceable standards in this case; instead, he cited the codes as evidence of accepted engineering practices. To the extent that defendant disagrees with Silberman's reliance on these codes, vigorous cross examination, presentation of contrary evidence, and careful instruction on the burden of proof are the traditional and appropriate means of rebutting his conclusions. Expert testimony is clearly relevant in this case to determine whether the stairs had an engineering defect that caused plaintiff's fall. Numerous courts have considered expert testimony in cases where, as here, the plaintiffs have alleged a structural defect. At the summary judgment stage, the court denies defendant's request to preclude Silberman's expert report.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 83106

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Vazquez V. JRG Realty Corp.

Citation: *; 2009 WL 8689809;2009 WL 8690879;2009 WL 8690880;2010 WL 9581513;2010 WL 9905344;2011 N.Y. App. Div. LEXIS 1315;2011 NY Slip Op 1349;81 A.D.3d 555;917 N.Y.S.2d 562*

Docket Number: 1155132007,2007-115513,4338

Area of Law: Personal Injury

Jurisdiction: State

Court: Supreme Court Of New York, Supreme Court, Appellate Division, First Department, New York

Counsel: Nicholas E. Warywoda, Kaufman Borgeest & Ryan LLP, Matthew Spergel, Esq.

Judges: Michael D. Stallman, Peter Tom, John W. Sweeny, Jr., Rolando T. Acosta, Dianne T. Renwick, Sallie Manzanet-Daniels

Disposition: Testimony insufficient to defeat grant of motion for summary judgment at trial; affirmed on appeal.

Retained by: plaintiff

Case Summary: Plaintiff filed its expert Silbermans testimony in opposition to Defendants motion for summary judgment. The Court granted the motion for summary judgment at trial. The judgment was affirmed on appeal.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 83097

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Debra WALKER V. SHAEVITZ & SHAEVITZ ESQS

Citation: ; 2017 WL 4539342;2017 WL 4539345;2017 WL 4922963;2018 WL 11412718

Docket Number: 00143302014

Area of Law: Personal Injury

Jurisdiction: State

Court: Supreme Court of New York. Queens County

Counsel: Effimia Soter, Law Offices of Effie Soter, P.C., 20 West 20th Street, 2nd Floor, New York, New York 10011, (646) 504-7384, Joan Martino, L'Abbate, Balkan, Colavita & Contini, L.L.P., 1001 Franklin Avenue, Garden City, New York 11530, (516) 294-8844, Our File No. 169L-98084

Judges: Cheree A. Buggs

Disposition: Testimony insufficient to defeat grant of motion for summary judgment.

Retained by: plaintiff

Case Summary: Plaintiff filed its expert Silberman's testimony in opposition to Defendant's motion for summary judgment. The Court granted the motion.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 83070

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Gianferrara V. Five Below, Inc.

Citation: *; 2018 NY S. Ct. Motions LEXIS 15557;2018 NY S. Ct. Motions LEXIS 7133*

Docket Number: 607254/2016

Area of Law: Premises Liability

Jurisdiction: State

Court: Supreme Court Of New York, Nassau County

Counsel: James Sawyer, Christopher J. Power

Judges: Denise L. Sher

Disposition: Testimony filed in opposition to motion for summary judgment; outcome unknown.

Retained by: plaintiff

Case Summary: Plaintiff filed its expert Silbermans testimony in opposition to Defendants motion for summary judgment. The outcome of the motion is unknown.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 83067

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: PAPP V. 31 GRAMERCY PARK SOUTH OWNERS CORP.

Citation: ; 2013 WL 12190375

Docket Number: 1120472010

Area of Law: Personal Injury

Jurisdiction: State

Court: Supreme Court of New York. New York County

Counsel: Carolyn A. Campbell, Esq., Donald S. Campbell, Esq., LLC, One North Broadway, Suite 1200, White Plains, New York 10601, Tele No.: (914) 285-1400, Fax No.: (914) 361-4481, E-mail: ccampbell@dfdlawfirm.com, JAMES ESPOSITO

Judges: Kathryn E. Freed

Disposition: Testimony criticized; outcome unknown.

Retained by: plaintiff

Case Summary: According to the Reply Affirmation in Support of Motion for Summary Judgment and in Opposition to Cross-Motion to Compel, it was stated that Additionally, the instant matter is not the first time plaintiff's engineer, Scott Silberman, has failed to provide sufficient data to support his findings. The outcome of the criticism is unknown.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 83017

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Florence SALIERNO V. CITY OF MOUNT VERNON

Citation: ; 2012 WL 8967911;2012 WL 9335893;2013 WL 12216858;2013 WL 4781582

Docket Number: 2012-09196,7750/10

Area of Law: Negligence

Jurisdiction: State

Court: Supreme Court of New York. Westchester County, Supreme Court, Appellate Division, Second Department, New York

Counsel: MICHAEL A. CALANO, Hina Sherwani

Judges: Jenny Rivera

Disposition: Affidavit admissible at trial; outcome of appeal is unknown.

Retained by: plaintiff

Case Summary: Plaintiff had filed its expert Silberman's affidavit in opposition to Defendant's motion for summary judgment. Defendant argued that his affidavit was bases on speculation. The trial Court denied the motion for summary judgment. The outcome of appeal is unknown.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 83003

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Gomez V. Congregation K'Hal Adath Jeshurun, Inc.

Citation: *; 2012 N.Y. Misc. LEXIS 6945;2012 WL 8123838;2016 WL 1052683*

Docket Number: 107983/10,9466

Area of Law: Personal Injury

Jurisdiction: State

Court: Supreme Court of New York, New York County, Supreme Court, Appellate Division, First Department, New York

Counsel: Jill Savadoff, Silbowitz Garafola, Silbowitz, Schatz & Frederick, LLP, 25 West 43rd Street, Suite 711, New York, New York 10036, 212-354-6800, msilbo @nylawyer.net, Peter N. Freiberg, Esq., Meiselman, Denlea, Packman Carton & Eberz P.C., 1311 Mamaroneck Avenue, White Plains, New York 10605, (914) 517-5000

Judges: Manuel J. Mendez

Disposition: Affidavit sufficient to defeat grant of motion for summary judgment at trial; outcome of appeal is unknown.

Retained by: plaintiff

Case Summary: Plaintiff had filed its expert Silberman's affidavit in opposition to Defendant's motion for summary judgment. The trial Court denied the motion for summary judgment. The outcome of appeal is unknown.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 82906

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: SEBASTIAN V. 2701 GRAND ASSOCIATES, LLC

Citation: ; 2014 WL 882768

Docket Number: 8429/07

Area of Law: Personal Injury

Jurisdiction: State

Court: Supreme Court, New York. Bronx County

Counsel: Not Mentioned, Not Mentioned

Judges: Mark Friedlander

Disposition: Affidavit inadmissible.

Retained by: plaintiff

Case Summary: Plaintiff filed its expert Silberman's affidavit in opposition to Defendant's motion for summary judgment. Defendant argued that his affidavit was conclusory and speculative. The Court granted the motion for summary judgment.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 82875

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Grace V. New York City Transit Authority

Citation: *; 123 A.D.3d 401;2014 N.Y. App. Div. LEXIS 8292;2014 NY Slip Op 08362;2014 WL 7715114;2014 WL 7715115;998 N.Y.S.2d 36*

Docket Number: 13302

Area of Law: Personal Injury

Jurisdiction: State

Court: Supreme Court, Appellate Division, First Department, New York

Counsel: Judah Z. Cohen, The Law Office of Judah Z. Cohen, PLLC, 1074 Broadway, Woodmere, New York 11598, 646-580-3440, juddzc@gmail.com, Sussman & Frankel, Steve S. Efron, Esq., 237 West 35th Street, Suite 1502, New York, New York 10001, (212) 867-1067, ssefron@aol.com, Wallace D. Gossett

Judges: Lizbeth Gonzalez, Angela M. Mazzarelli, Richard T. Andrias, Leland G. DeGrasse, Darcel D. Clark

Disposition: Testimony properly allowed at trial; affirmed.

Retained by: plaintiff

Case Summary: According to the Brief For Defendant-Appellant, it was stated that To support her claim, plaintiff hired an expert, Scott Silberman, who testified that the broken tiles were a dangerous condition that posed a threat to subway passengers. Silberman based his opinion solely on plaintiff's recollection of what the tiles looked like on the day she fell, as described at her 50-h hearing. He did not visit the subway station to examine the area where plaintiff tripped and take measurements of the alleged defect, nor did he review photographs of the allegedly hazardous condition. This Court has held time and again that an expert's opinion regarding allegedly dangerous condition is no more than speculative unless it is supported by that expert's own personal knowledge. Although the Authority objected to Silberman's testimony of that ground, the lower court allowed the expert to testify. For this reason, the judgment should be vacated and the case should be remanded for a new trial. The judgment was affirmed.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 82869

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: KUDLACK V. DIOCESE OF ROCKVILLE CENTRE

Citation: ; 2010 WL 9540948

Docket Number: 2010-05675

Area of Law: Personal Injury

Jurisdiction: State

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

Counsel: Weiser & Associates, LLP, Mulholland, Minion & Roe

Judges: Joseph Covello

Disposition: Testimony criticized; outcome unknown.

Retained by: plaintiff

Case Summary: According to the Brief of Defendants-Appellants, it was stated that Counsel for plaintiff, in his affirmation in opposition, fails to produce one scintilla of evidence that would allow a jury to reasonably conclude that the defendant was negligent in creating a dangerous condition. His entire case rests upon the conclusory assertions of an ostensible expert, Scott Silberman, P.E., who's area of expertise is unknown and who's report was prepared without any personal knowledge of the facts, circumstances, or conditions surrounding the incident at bar. The outcome of the criticism is unknown.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 82867

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Sarmiento V. C & E Associates

Citation: ; 2006 WL 4759013;2007 WL 1531837

Docket Number: 368

Area of Law: Premises Liability

Jurisdiction: State

Court: Supreme Court, Appellate Division, First Department, New York

Counsel: Michael J. Asta, Esq., Law Offices Of Michael J. Asta, 450 Seventh Avenue, Suite 2205, New York, New York 10123, (212) 244-6555., Andrew Zajac, Fiedelman & Mcgaw, Two Jericho Plaza - Suite 300, Jericho, New York 11753, (516) 822-8900, Appellate Counsel For, Fiedelman & Garfinkel

Judges: Saxe, Nardelli, Buckley, Gonzalez, Sweeny

Disposition: Testimony found insufficient to win grant of motion for summary judgment; affirmed in part on appeal.

Retained by: plaintiff

Case Summary: According to the Brief For Plaintiffs-Respondents Jorge Sarmiento And Dolores Sarmiento it was stated that On or about November 16, 2005, Appellant moved for summary judgment dismissing Respondents' complaint (R. 10). In support of its application, Appellant relied, virtually exclusively, on arguments centered on notice regarding the wet condition of the stairs. Appellant did not address any of the findings made by Silberman. In fact, Silberman's name was never mentioned in Appellant's counsel's initial Affirmation (R. 12-19). Only in its reply affirmation, did it address Silberman's findings (R. 285). On or about July 5, 2006, Judge Shirley Werner Kornreich denied Appellant's motion for summary judgment (R. 4-9). The judgment was affirmed in part.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 82852

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Nabas V. Time Warner Inc.

Citation: ; 2011 WL 11166171

Docket Number: 104323/2007

Area of Law: Personal Injury

Jurisdiction: State

Court: Supreme Court, New York, New York County

Counsel: Pierre Bazile, Durkin & Durkin, LLP

Judges: Carol R. Edmead

Disposition: Testimony insufficient to defeat grant of motion for summary judgment.

Retained by: plaintiff

Case Summary: Plaintiff filed its expert Silbermans testimony in opposition to Defendants motion for summary judgment. The Court granted the motion.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 82798

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: HABIBIAN V. CHELSEA PIERS

Citation: ; 2012 WL 13222154;2012 WL 13227979

Docket Number: 116247/2009

Area of Law: Personal Injury

Jurisdiction: State

Court: Supreme Court of New York. New York County

Counsel: Michael Schwartz, Salenger Sack Kimmel & Bavaro, LLP, 180 Froehlich Farm Blvd., Woodbury, NY 11797, (516) 677-0100, Jessica Schambach, 100 Church Street, New York, New York 10007, (212) 788-0611

Judges: Geoffrey D. Wright

Disposition: Testimony criticized; outcome unknown.

Retained by: plaintiff

Case Summary: According to the Reply Affirmation, it was stated that Moreover, Mr. Silberman's affidavit should not be considered in opposition to the underlying motions as Mr. Silberman bases his conclusion on three sections of the New York City Building Code, all of which are inapplicable to the case at bar. As articulated in Studio's Reply Affirmation, Mr. Silberman relies on sections of the Code that refer to ramps used for accessing an exterior space from an interior space, which are clearly inapplicable to the instant alleged defective condition. See Studio's Reply Affirmation at paragraphs 12-17. None of the codes cited by Mr. Silberman address the current situation, which is the placement of cable protectors within interior spaces. The outcome of the criticism is unknown.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 82779

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Deborah J. Bentley V. Madison Avenue Realties, LLC Et Al

Citation: ; 2018 WL 11000911

Docket Number: 155323/2014

Area of Law: Tort Law

Jurisdiction: State

Court: New York State, New York County, Supreme Court

Counsel: Brian J. Isaac, Salvatore J. Desantis

Judges: Robert D. Kalish

Disposition: Testimony filed in opposition to motion for summary judgment; outcome unknown.

Retained by: plaintiff

Case Summary: Plaintiff filed its expert Silbermans testimony in opposition to Defendants motion for summary judgment. The outcome of the motion is unknown.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 82693

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Labatto Mary V. Genting New York Llc

Citation: ; Not Applicable

Docket Number: 0150135/2013

Area of Law: Personal Injury

Jurisdiction: State

Court: NY Supreme - New York

Counsel: Robert E. Godosky, Debra A. Adler

Judges: Cynthia S. Kern

Disposition: Testimony sufficient to win grant of motion for summary judgment in part.

Retained by: defendant

Case Summary: Defendant filed expert Silberman's testimony in support of its motion for summary judgment. The Court granted in part and denied in part Defendant's motion for summary judgment.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 82661

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Aguayo V. New York City Housing Authority

Citation: *; 2009 WL 8728000;2010 N.Y. App. Div. LEXIS 2454;2010 NY Slip Op 2494;71 A.D.3d 926;897 N.Y.S.2d 239*

Docket Number: 2009-05504

Area of Law: Premises Liability

Jurisdiction: State

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

Counsel: Anita Nissan Yehuda, Bornstein & Emanuel P.C., Gilbert Aguayo, Anita Nissan Yehuda, P.C., Appellate Counsel, 99 Powerhouse Road, Suite 208, Roslyn Heights, New York 11577, 516-625-5585, Russo, Keane & Toner, Llp, 33 Whitehall Street, 16th Floor, New York, New York 10004, (212) 482-0001

Judges: Reinaldo E. Rivera, Anita R. Florio, Daniel D. Angiolillo, Ariel E. Belen

Disposition: Testimony improperly found sufficient to defeat motion for summary judgment; reversed on appeal.

Retained by: plaintiff

Case Summary: According to the Brief For Plaintiff-Respondent Gilbert Aguayo it was stated that In opposition to Defendant's motion, Plaintiff addressed and pointed out the flaws in Defendant's arguments and, in addition, submitted 22 photographs, Plaintiff's affidavit, the affidavit of Plaintiff's girlfriend attesting to having taken the photographs, a series of Defendant's Quarterly Inspection Reports, and the affidavit of an expert, Scott Silberman, P.E. (406-464). The trial court had denied Defendants motion for summary judgment. The judgment was reversed on appeal.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 82653

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Galo Ordonez Et Al V. Ruggs Path, LCC Et Al

Citation: ; 2017 WL 11637622;2018 WL 11364232

Docket Number: 609406/2015

Area of Law: Tort Law

Jurisdiction: State

Court: New York State, Suffolk County, Supreme Court

Counsel: John Zervopoulos, Bruce A. Torino

Judges: Sanford N. Berland

Disposition: Testimony cited in support of motion for summary judgment; outcome unknown.

Retained by: plaintiff

Case Summary: Plaintiff cited expert Silbermans testimony in support of its motion for summary judgment. The outcome of the motion is unknown.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 82603

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: James W. Cooper V. First In Queens, Inc., D/B/A Shell Gas Station Et Al

Citation: ; 2019 WL 6456442

Docket Number: 710076/2015

Area of Law: Tort Law

Jurisdiction: State

Court: New York State, Queens County, Supreme Court

Counsel: Herbert S. Subin, Michele Ann Musarra

Judges: Not Mentioned

Disposition: Testimony cited in support of motion for summary judgment; outcome unknown.

Case Summary: Defendant cited expert Silbermans testimony in support of its motion for summary judgment. The outcome of the motion is unknown.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 82550

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: KUN SIK KIM V. STATE STREET HOSPITALITY, LLC.

Citation: ; 2010 WL 10971752;2010 WL 11002977;2010 WL 11618714;2018 WL 3224151

Docket Number: 2010-09817,211672008

Area of Law: Personal Injury

Jurisdiction: State

Court: Supreme Court of New York. Queens County, Supreme Court, Appellate Division, Second Department, New York

Counsel: Paul Schietroma, P.C. 237 West 35th Street Suite 301, New York, NY 10001, (212) 714-2100, Robert M. Mazzei

Judges: Phyllis Orlikoff Flug

Disposition: Affidavit admissible at trial; outcome of appeal is unknown.

Retained by: plaintiff

Case Summary: Plaintiff had filed its expert Silberman's affidavit in support of its motion for summary judgment. According to Affirmation in Opposition to Plaintiff's Motion for Summary Judgment it was stated that Mr. Silberman speculates, without basis in fact, that Mr. Kim needed the use of both of his hands in order to wield the twenty pound ladder, and therefore, could not have three point control on the ladder which thus necessitated the use of some other device. Ironically, Mr. Silberman's speculation, if admissible at trial, would fully support a finding by a jury that the accident in question was solely the fault of the plaintiff because he failed to maintain three-point contact on the ladder while performing his work, and failed to notify anyone, including his supervisor Mr. Yoon, that he was not able to perform the hand demolition without the use of two hands. The trial Court granted the motion for summary judgment. The outcome of appeal is unknown.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 82533

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Beaver-Gale V. Waldorf Astoria Hotel

Citation: *; 2016 N.Y. Misc. LEXIS 2977;2016 NY Slip Op 31521(U);2016 WL 4256988*

Docket Number: 158368/2013

Area of Law: Personal Injury

Jurisdiction: State

Court: Supreme Court Of New York, New York County

Counsel: Greenstein & Milbauer, LLP, Not Mentioned

Judges: Cynthia S. Kern

Disposition: Testimony insufficient to defeat motion for summary judgment.

Retained by: plaintiff

Case Summary: The Court observed that Plaintiff's argument that the affidavit and report of Scott M. Silberman, P.E. (Silberman), her engineering expert, raise an issue of fact as to whether the condition of the landing deviated from industry custom or practice is also without merit. The only basis Silberman cites for his opinion in his report that single steps should be avoided where possible and, where they cannot be avoided, that good practice demands highlighting the step's nosing with delineation stripes of contrasting colors or similar treatment applied to the nosing edge or provide sic warning signs or handrails is American Society of Testing Materials (ASTM) Standard F1637. ASTM Standard F1637 provides that short flight stairs (three or fewer risers) shall be avoided where possible and otherwise should be made visually obvious through the use of visual cues, one of which is contrast in surface colors. As it is undisputed that the landing is a different color than the carpet covering the sidewalk, Silberman's affidavit and report fail to raise an issue of fact as to whether the condition of the landing deviated from the industry custom or practice allegedly represented by ASTM Standard F1637. Accordingly, defendant's motion for summary judgment is granted and plaintiff's complaint is hereby dismissed. This constitutes the decision and order of the court.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 82494

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: APPLE V. CENTURY 21 DEPARTMENT STORES

Citation: ; 2007 WL 9650407;2007 WL 9650409

Docket Number: 1156352005

Area of Law: Personal Injury

Jurisdiction: State

Court: Supreme Court of New York. New York County

Counsel: Joan Apple, Krinsky & Musumeci, Esqs., 475 Fifth Avenue - Suite 602, New York, New York 10017, (212) 532-1973, Ira E. Goldstein, O'Connor, O'Connor, Hintz & Deveney, LLP, One Huntington Quadrangle, Suite 3C01, Melville, NY 11747, (631) 777-2330

Judges: Michael D. Stallman

Disposition: Testimony criticized; outcome unknown.

Retained by: plaintiff

Case Summary: According to the Affirmation in Reply, it was stated that As plaintiffs expert Scott Silberman's affidavit is wholly devoid of any supporting facts or data, it is worthless. It was further stated that As was the case in Espinosa v. A&S Welding & Boiler Repair, Inc., supra, plaintiffs expert's conclusions herein are based on nothing more than blind speculation, as plaintiffs expert-for-hire, Scott Silberman, DID NOT even examine the actual T-rack allegedly involved in plaintiffs accident. (See Exh. B, Plaintiffs Affirmation in Opposition). Instead, his analysis focused on a rack that was of the same model. Therefore, any opinion proffered by Mr. Silberman is irrelevant to the case at bar and should be disregarded, as should plaintiffs baseless allegations that the subject rack was improperly used, overloaded, unstable and hazardous. The outcome of the criticism is unknown.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 82475

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: FORD V. 1075 NELSON LLC

Citation: ; 2011 WL 11526998

Docket Number: 30886509

Area of Law: Personal Injury

Jurisdiction: State

Court: Supreme Court of New York. Bronx County

Counsel: JAY H. TANENBAUM - LAW OFFICE, Elizabeth A. Filardi

Judges: HOWARD H. SHERMAN

Disposition: Testimony criticized; outcome unknown.

Retained by: plaintiff

Case Summary: According to the Affirmation in Support, it was stated that The plaintiff did not slip on a foreign material. In fact, the plaintiff had absolutely no idea what cause her fall and specifically testified that she did not know if the there was any water, debris or other substances present on the stairway at the time of her accident. As such, Mr. Silberman's report is completely based off the wrong accident description and is therefore irrelevant in this matter. The outcome of the criticism is unknown.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 82361

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: WARD V. URBAN HORIZONS II HOUSING DEVELOPMENT FUND CORPORATION

Citation: ; 2014 WL 10520275;2015 WL 6948526

Docket Number: 14817

Area of Law: Personal Injury

Jurisdiction: State

Court: Supreme Court, Appellate Division, First Department, New York

Counsel: Lawrence D. Lissauer, Esq., Jacoby & Meyers, LLP, 1279 Route 300, P.O. Box 1111, Newburgh, New York 12551, (800) 890-3090, llissauer@lawampm.com, CHENG & ASSOCIATES, PLLC

Judges: Angela M. Mazzarelli

Disposition: Testimony criticized; outcome unknown.

Retained by: plaintiff

Case Summary: According to the Reply Brief for Defendants-Appellants, it was stated that This court should disregard Silberman's opinion in totality as well as plaintiffs arguments because they are unreliable, unsupported by the facts, and misleading. Any determination of whether plaintiff was given proper protection is an issue for the jury to determine and not an expert, especially since Silberman's opinions are not based on the actual evidence. The outcome of the criticism is unknown.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 82357

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: SPEARIN V. LINMAR, L.P

Citation: ; 2015 WL 6406632

Docket Number: 155561/12

Area of Law: Personal Injury

Jurisdiction: State

Court: Supreme Court of New York. New York County

Counsel: KENNETH J. HALPERIN, LEONARD MICHAEL CASCONE

Judges: Cynthia S. Kern, James D'Auguste

Disposition: Affidavit insufficient to win grant of motion for summary judgment.

Retained by: plaintiff

Case Summary: Plaintiff filed its expert Silberman's affidavit in support of its motion for summary judgment. The court denied the motion.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 82332

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: FUSCO V. THE CITY OF NEW YORK

Citation: ; 2009 WL 8730246;2010 WL 9877051

Docket Number: 2009-04015

Area of Law: Personal Injury

Jurisdiction: State

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

Counsel: Not Mentioned, Richard T. Lau & Associates

Judges: Steven W. Fisher, John M. Leventhal, Ariel E. Belen, Sandra L. Sgroi

Disposition: Testimony criticized; outcome unknown.

Retained by: plaintiff

Case Summary: According to Reply Brief For Defendant-Appellant-Respondent it was stated that Equally unpersuasive is the defendant-cross-appellant-respondent, City of New York's, reliance upon the affidavit of expert, Scott M. Silberman, P.E., in which he expressed the ultimate conclusion that the sidewalk upon which plaintiff-respondent, Carmela Fusco, fell was in a defective condition. Indeed, the affidavit of Mr. Silberman contained nothing more than speculation and was legally insufficient as a matter of law to raise a question of fact as to ?? ility of defendant-appellant-respondent. Indeed, a careful review of the six-page affidavit of Mr. Silberman reveals that his conclusion is based upon the assumption that plaintiff-respondent, Carmela Fusco, tripped over the defective sidewalk. This is contrary to her testimony that she fell due to the tree trunk. Moreover, in his report, Mr. Silberman admits that his conclusion is based upon the assumption that the *8 sidewalk (as he inspected it) was in a similar condition as it was on the day of the accident. However, his inspection was made on February 22, 2006 - - one month after the accident, this it is sheer speculation on Mr. Silberman's part that the plaintiff tripped due to a defective condition on the sidewalk. The outcome of the criticism is unknown.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 82296

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Alison Bennion V. 111 New Land Corp.

Citation: ; Not Applicable

Docket Number: 151474/2014

Area of Law: Tort Law

Jurisdiction: State

Court: New York State, New York County, Supreme Court

Counsel: Craig Pierce Fenno, Mark Joseph Hanlon

Judges: Jennifer Schecter

Disposition: Testimony filed in support of motion for summary judgment; outcome unknown.

Retained by: plaintiff

Case Summary: Plaintiff filed its expert Silbermans testimony in support of its motion for summary judgment. The outcome of the motion is unknown.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 82203

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Gorge CASANOVA V. HAMILTON-SHARP PROPERTIES LLC

Citation: ; 2003 WL 24030517;2003 WL 24030518

Docket Number: 2003-06520

Area of Law: Personal Injury

Jurisdiction: State

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

Counsel: Greenberg & Stein, Paul L. Lincoln

Judges: Stephen G. Crane

Disposition: Testimony criticized; outcome unknown.

Retained by: plaintiff

Case Summary: According to the Brief for Defendant-Appellant, it was stated that An affidavit from Mr. Scott Silberman, P.E., is also attached to the plaintiff's opposition. Mr. Silberman's affidavit and attachments should be completely disregarded by the court in its determination of this motion. Mr. Silberman only reviewed the deposition transcripts of Mr. Casanova and the photographs submitted by the plaintiff in his determination. He never visited the building or actually saw the stairs where Mr. Casanova allegedly had his accident. Mr. Silberman also refers to the pictures that the plaintiff has attached to his papers, noting that they show the stairs where Mr. Casanova fell. But Mr. Silberman, himself cannot attest that the pictures depict those stairs because he, himself, never saw them. He is only repeating what the plaintiff has stated regarding those pictures. Although Mr. Silberman states that he reviewed the transcripts and the photos, it seems that his conclusions are based solely on the photographs. In fact, only from the photos does Mr. Silberman determine that the stairs are constructed exclusively of marble and that it is clear that the stairs where Mr. Casanova fell were not constructed of nonskid material, but were apparently constructed of marble. Mr. Silberman is making conclusions based on pure conjecture and speculation. He states that the use of nonskid materials for stair treads has been mandatory in New York City since 1968. But nothing in his report addresses the age of the building allegedly depicted in the pictures. Perhaps the plaintiff's attorneys could have told him that after they took the pictures. Based only on the photographs, Mr. Silberman concludes, somewhat miraculously, that the stairs in question violate building codes and longstanding standards of the industry. Mr. Silberman also claims that, based solely on the photographs, that it is clear that the stairs in question do not comply with requirements regarding the height and width of stair treads and risers. But Mr. Silberman never actually measured those stairs. In fact, with a keen eye, Mr. Silberman notes that there is a deviation in height between the first and second stair of approximately one inch or more. There is nothing in the pictures themselves regarding scale, and Mr. Silberman can only be guessing as to any deviation. The outcome of the criticism is unknown.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 82157

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Chichester V. The City Of New York

Citation: ; 2009 WL 10715836

Docket Number: 112976/2004

Area of Law: Personal Injury

Jurisdiction: State

Court: Supreme Court Of New York

Counsel: Kenneth Mangano, Esq., Our File No.: 3977, Ferro, Kuba, Bloom, Mangano, Gacovino & Lake, P.C., Twenty One Penn Plaza, Suite 1100, New York, New York 10001, (212) 244-7676, White, Quinlan & Staley, L.L.P.

Judges: Karen S. Smith

Disposition: Testimony filed in opposition to motion for summary judgment; outcome unknown.

Retained by: plaintiff

Case Summary: Plaintiff filed its expert Silbermans testimony in opposition to Defendants motion for summary judgment. The outcome of the motion for summary judgment is unknown.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 82147

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Bosser V. Bay Restoration Corp.

Citation: *; 2009 WL 7215838;2009 WL 7227244;2010 N.Y. App. Div. LEXIS 9754;2010 NY Slip Op 9878;2010 WL 9547939;2010 WL 9547940;2010 WL 9547941;2010 WL 9547942;79 A.D.3d 1086;913 N.Y.S.2d 570*

Docket Number: 17076/06,2009-08957

Area of Law: Products Liability

Jurisdiction: State

Court: Supreme Court Of New York, Westchester County, Supreme Court, Appellate Division, Second Department, New York

Counsel: Sacks And Sacks, LLP, Nanis & Rinaldi, LLP

Judges: Gerald E. Loehr

Disposition: Testimony found insufficient to defeat grant of motion for summary judgment at trial; affirmed on appeal.

Retained by: plaintiff

Case Summary: Plaintiff had filed its expert Silbermans testimony in opposition to Defendants motion for summary judgment. The Court granted the motion at trial. The judgment was affirmed on appeal.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 82048

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Matthews V. 400 Fifth Ave. LLC

Citation: *; 2012 N.Y. Misc. LEXIS 3426;2012 NY Slip Op 31884(U);2013 WL 12165738*

Docket Number: 101477/2010,2013-10946

Area of Law: Labor & Employment

Jurisdiction: State

Court: Supreme Court Of New York, New York County, Supreme Court, Appellate Division, First Department, New York

Counsel: Not Mentioned, Cornell Grace, P.C., 111 Broadway, Suite 810, New York, New York 10006, (212)233-1100, Kgrace@Cornellgrace.Com

Judges: Doris Ling-Cohan

Disposition: Testimony found insufficient to win grant of motion for summary judgment at trial; outcome of appeal is unknown.

Retained by: plaintiff

Case Summary: According to the Brief For Defendants-Respondents, it was stated that In support of his motion, plaintiff submitted the Affidavit of a previously undisclosed liability expert, Scott Silberman. (R: 349-396) In response. Defendants submitted the expert Affidavit of engineer Bernard Lorenz. (R: 468-480) The motion court found that the very fact of this dual submission created a question of fact that mandated denial of summary judgment on Labor Law 240(1) for both plaintiff and Respondents. (R 12) Respondents argued that Mr. Silberman's Affidavit was purely speculative, with no basis in the facts of the case and unsupported by any accepted authority. This argument is not on appeal here. However, a brief look at the findings of both plaintiff's and Respondents' experts makes it clear that the motion Court properly denied plaintiff's motion for summary judgment. The outcome of appeal is unknown.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 81989

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Bolivar AMILL v. LAWRENCE RUBEN COMPANY

Citation: *; 100 A.D.3d 458;2012 N.Y. App. Div. LEXIS 7548;2012 NY Slip Op 7577;2012 WL 13008974;2012 WL 13029225;2014 WL 5080230;954 N.Y.S.2d 27*

Docket Number: 12381,8493

Area of Law: Personal Injury

Jurisdiction: State

Court: Supreme Court, Appellate Division, First Department, New York

Counsel: Lisa M. Comeau, Appellate Counsel, The Law Office of Dino J. Domina, 1225 Franklin Avenue,suite 325, Garden City, New York 11530, 516-616-0245, lmcomeau @aol.com, Eric P. Tosca, Law Office of James J. Toomey, 485 Lexington Avenue, 7th Floor, New York, New York 10017, 917-778-6600, ctosca@travelers.com

Judges: GONZALEZ, SAXE, CATTERSON, ACOSTA, GISCHE

Disposition: Testimony found insufficient to defeat grant of motion for summary judgment at trial; affirmed in part on appeal.

Retained by: plaintiff

Case Summary: Plaintiff had filed its expert Silberman's testimony in opposition to Defendant's motion for summary judgment. The Court granted the motion for summary judgment at trial. The judgment was affirmed in part on appeal.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 81814

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Gragnaniello V. County Of Westchester

Citation: *; 2015 NY S. Ct. Motions LEXIS 12308;2015 NY S. Ct. Motions LEXIS 12923*

Docket Number: 50912/2014

Area of Law: Premises Liability

Jurisdiction: State

Court: Supreme Court Of New York, Westchester County

Counsel: Michafl Jaffe Esq., Not Mentioned

Judges: Not Mentioned

Disposition: Testimony filed in support of motion for summary judgment; outcome unknown.

Retained by: plaintiff

Case Summary: Plaintiff filed its expert Silbermans testimony in support of its motion for summary judgment. The outcome of the motion is unknown.

Ground(s) of Challenge: Others

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