Lexis® Context Report

Scott Michael Silberman P.E.

Civil Engineering, Structural Engineering, Construction Accidents

User Name:

Jasen Abrahamsen

Date and Time:

Saturday, October 21, 2023 12:38:00 PM EDT

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2022 DAUBTR LEXIS 81805

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Sebastiano V. Bamundo

Citation: *; 2014 NY S. Ct. Motions LEXIS 310;2014 WL 12976572*

Docket Number: 21365/2014

Area of Law: Medical Malpractice

Jurisdiction: State

Court: Supreme Court Of New York, Bronx County

Counsel: David Friedman, HILLARY JACOBS RAIMONDI

Judges: Wilma Guzman

Disposition: Testimony filed in support of motion to dismiss; outcome unknown.

Retained by: defendant

Case Summary: Defendant filed its expert Silbermans testimony in support of its motion to dismiss. The outcome of the motion is unknown.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 81785

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Byrne V. Ramada Worldwide Inc

Citation: ; 2008 WL 6915435;2008 WL 6915436

Docket Number: 101363/07,113904/07

Area of Law: Premises Liability

Jurisdiction: State

Court: Supreme Court of New York, New York County

Counsel: Ginsberg & Bianco, LLP, 259 Mineola Boulevard, Mineola, NY 11501, 516-742-7747, By: Peter Ginsberg, Esq., Ivan C. Torres

Judges: Edward H. Lehner

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 81754

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Rasole V. Bovis Lend Lease-Lmb, Inc

Citation: ; 2006 WL 8428212

Docket Number: 1032702004

Area of Law: Negligence

Jurisdiction: State

Court: Supreme Court Of New York, New York County

Counsel: Jonathan D'agostino & Associates, P. C., 622 Barlow Avenue, Staten Island, New York 10309, (718) 967-1600, Leon R. Kowalski

Judges: Marcy S. Friedman

Disposition: Testimony challenged; outcome unknown.

Retained by: plaintiff

Case Summary: According to the Affirmation In Reply it was stated that The affidavit of Mr. Silberman must also be disregarded since there is no indication that Mr, Silberman ever inspected the scaffold or even a replica. Nor is there even any indication that Mr. Silberman reenacted the circumstances allegedly surrounding this incident or performed any testing. Without doing so, Mr. Silberman's opinion has no probative value since it is based on nothing other than his own speculation. Without performing any such inspection, testing or reenactment, Mr. Silberman's opinion that the defendants deviated from acceptable safety practices or violated OSHA standards has no basis in fact. All Mr. Silberman did in rendering his opinion was review deposition transcripts and a contract. Mr. Silberman does not even indicate what type of scaffold was involved, what the height was, or even what the scaffold's configuration was. Since there is no indication that Mr. Silberman performed any inspection or testing, his affidavit is insufficient as well as conclusory and insufficient to establish a triable issue of fact. The outcome of the challenge regarding Silbermans testimony is unknown.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 81702

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Sondra Marks V. 79th Street Tenants Corp. Et Al

Citation: *; 2020 NY APP. DIV. BRIEFS LEXIS 4252;2020 NY APP. DIV. BRIEFS LEXIS 4371;2020 NY APP. DIV. BRIEFS LEXIS 4402;2020 NY APP. DIV. BRIEFS LEXIS 4409;2020 WL 8412094;2020 WL 8412095;2020 WL 8412096;2020 WL 8412097*

Docket Number: 153486/2015,2020-02895

Area of Law: Tort Law

Jurisdiction: State

Court: New York State, New York County, Supreme Court, SUPREME COURT OF NEW YORK, APPELLATE DIVISION, FIRST DEPARTMENT

Counsel: Mark Jay Epstein, Jeffrey D. Fippinger

Judges: Nancy Bannon

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 81698

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: EDWARDS V. LEVY

Citation: *; 2018 NY S. Ct. Motions LEXIS 14135*

Docket Number: 26800/2015

Area of Law: Negligence

Jurisdiction: State

Court: SUPREME COURT OF NEW YORK, BRONX COUNTY

Counsel: Not Mentioned, PATRICK PRAGER, MORRIS DUFFY ALONSO & FALEY

Judges: Not Mentioned

Disposition: Testimony criticized; outcome unknown.

Retained by: plaintiff

Case Summary: According to AFFIRMATION IN REPLY it was found that Here, plaintiff attaches the expert Affidavit of Scott Silberman, P.E.. The Affidavit of Mr. Silberman must be rejected in its entirety. There is absolutely no way that his speculative assertion can raise a triable issue fact. Amaya v. Denihan Ownership Co., LLC., 30 A.D.3d 327 (1st Dept. 2006) (Where the expert's ultimate assertions are speculative or unsupported by any evidentiary foundation . . . the opinion should be given no probative force and is insufficient to withstand summary judgment). Mr. Silberman has never inspected the home, is unfamiliar with the litigation herein and his opinion is entirely based upon speculation and unfounded conclusions which, as established by the Court, leave's his affidavit unable to raise a triable issue of fact. The outcome of the criticism is unknown.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 81677

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Blokh V. Andy's Sea Food & Grill

Citation: *; 2013 N.Y. Misc. LEXIS 4616;2013 WL 10808532;2013 WL 10808533;2013 WL 10808543*

Docket Number: 5024/2011

Area of Law: Personal Injury

Jurisdiction: State

Court: Supreme Court Of New York, Queens County

Counsel: Robert W. Margulies, Drabkin & Margulies, 120 Broadway, Suite 1150, New York, New York 10271, (212) 964-3400, Our File No. T7189, Pillinger Miller Tarallo, Llp, 570 Taxter Road, Suite 275, Elmsford, Ny 10523, (914) 703-6300, Our File No. Yrk-00179/Mhp

Judges: Robert J. McDonald

Disposition: Testimony insufficient to defeat motion for summary judgment.

Retained by: plaintiff

Case Summary: The Court noted that Defendant 95 Queens Blvd. LLC, the owner of the building located at 95-26 Queens Boulevard, Rego Park, cross-moves for an order dismissing the plaintiff's complaint on the ground that the alleged defect is trivial in nature. Co-defendant states that it joins in the tenant's motion to dismiss and requests dismissal against 95 Queens Blvd for the same reasons asserted in the co-defendant's motion and adopts and incorporates the same arguments as to the trivial nature of the defect. Counsel asserts that it is clear from the photographs submitted that the purported height differential is not more than one half of an inch and not substantial enough to support a cause of action as a matter of law. In opposition, plaintiff argues that the defendants have failed to make a prima facie showing that the condition in question was too trivial to be actionable or that it did not have actual or constructive notice of the allegedly hazardous condition. In support of the opposition, the plaintiff attaches the affidavit of engineer, Scott Silberman. As the sidewalk was repaired prior to his being retained, the engineer utilized the photographs and deposition testimony in order to arrive at his conclusions. Plaintiff states that the expert was retained primarily to oppose the motion and therefore he did not delay in exchanging the expert witness information as the expert information was not available until the tim of the submission of the affirmation in opposition. In his report the expert states that there is a defect in the sidewalk by having a vertical grade differential of 3/4 to 1 inch which runs between adjacent sidewalk flags for a length of approximately 4 to 7 feet in a jagged irregular and uneven manner. Since the joint runs parallel to one walking on the sidewalk, such as the plaintiff in this case, the sidewalk vertical grade differential is not open and obvious, in camouflaged, not readily apparent and difficult to detect. He states that, in his opinion, these conditions made this sidewalk defect a trap-like condition, since there existed an irregular mis-leveled surface under plaintiff, which condition was difficult to detect and not open and obvious under the circumstances. Counsel also argues that even if the plaintiff's evidence was sufficient to make a prima facie showing that the defect was trivial, the plaintiff's expert report raises a triable issue of fact with respect to liability. The Court held that ORDERED, that the motion by defendant ANDY'S SEAFOOD & GRILL for summary judgment dismissing the plaintiff's complaint and all cross-claims and the cross-motion by defendant 95 QUEENS BLVD, LLC for an order dismissing the plaintiff's complaint and all cross-claims is granted.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 81672

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Pwangsunthie V. Marco Realty Associates

Citation: ; 2014 WL 12600689;2014 WL 5297927

Docket Number: 3085202009

Area of Law: Premises Liability

Jurisdiction: State

Court: Supreme Court Of New York, Bronx County

Counsel: Brielle C. Goldfaden, Wingate, Russotti, Shapiro & Halperin, Llp, 420 Lexington Avenue, Suite 2750, New York, Ny 10170, (212) 986-7353, Debra J. Millman, Esq., Debra J. Millman Attorney At Law P.C., 420 Lexington Avenue, Suite 830, New York, NY 10170, Phone: (212) 406-4700, Fax: (212) 528-1683

Judges: Kenneth L. Thompson, Jr.

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 81568

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Alabadla V. Allied

Citation: *; 2019 NY S. Ct. Motions LEXIS 1645;2019 NY S. Ct. Motions LEXIS 2377*

Docket Number: 504264/2016

Area of Law: Personal Injury

Jurisdiction: State

Court: Supreme Court Of New York, Kings County

Counsel: Steven M. Costanzo, Aaronson Rappaport Feinstepn & Deutsch, Llp, New York, NY, Daniel Y. Sohnen

Judges: Lara Genovesi

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 81542

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Reyes V. Roman Catholic Church Of The Immaculate Conception

Citation: ; 2016 WL 6997928

Docket Number: 300211/2014

Area of Law: Personal Injury

Jurisdiction: State

Court: Supreme Court Of New York, Bronx County

Counsel: Not Mentioned, Jerry Granata, Armienti, Debellis, Guglielmo & Rhoden, LLP, 39 Broadway, Suite 520, New York, New York 10006

Judges: Julia I. Rodriguez

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 81484

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: MANGIAPILI v. WEST 39TH STREET LLC

Citation: ; 2017 WL 2721552;2017 WL 2817819

Docket Number: 03014852012

Area of Law: Personal Injury

Jurisdiction: State

Court: Supreme Court of New York. Bronx County

Counsel: William A. Gentile, Mark A. Bethmann

Judges: Lucindo Suarez

Disposition: Testimony partly admissible.

Retained by: plaintiff

Case Summary: Plaintiff filed its expert Silberman's testimony in support of its motion for summary judgment. Defendant argued that the instant affidavit of plaintiff's alleged expert, Scott M. Silberman, should be disregarded as speculative. The Court granted in part Plaintiff's motion for summary judgment.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 81476

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: MANSFIELD V. DOLCEMASCOLO

Citation: ; 2005 WL 5240259;2006 WL 4093936

Docket Number: 2005-05167

Area of Law: Personal Injury

Jurisdiction: State

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

Counsel: Law Office of Max W. Gershweir, 120 Broadway, 17th Floor, New York, New York 10271, (212) 655-5009, Law Office of Max W. Gershweir, 120 Broadway, 17th Floor, New York, New York 10271, (212) 655-5009, Appellate Counsel to: Law Office of Steven G. Fauth

Judges: ANITA R. FLORIO

Disposition: Testimony criticized; outcome unknown.

Retained by: plaintiff

Case Summary: According to the Reply Brief for Defendants/Third-Party Plaintiffs-Appellants, it was stated that Finally, Silberman's reliance on §§ 27-127 and 27-128, which generally require building owners to maintain their premises in a safe condition, is misplaced. First, because these provisions are nonspecific and reflect only the general dun to *5 maintain premises in a safe condition, they are not the proper predicate, standing alone, of an expert's opinion regarding the safety of a particular condition. Lee v. Oh, 3 A.D.3d 473, 474, 771 N.Y.S.2d 134 (2d Dep't 2004). Second, Silberman's conclusory claim that the owners violated these provisions by allowing the stair nosings and treads to be extremely worn (R484) is unavailing because he failed to cite as support any objective testing or specific industry standards. The outcome of the criticism is unknown.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 81468

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Helen CHUISES V. V & J REALTY CO. LLC.

Citation: *; 2018 NY S. Ct. Motions LEXIS 2810;2018 WL 11226230;2018 WL 11392533*

Docket Number: 700616/2016

Area of Law: Personal Injury

Jurisdiction: State

Court: Supreme Court of New York. Queens County

Counsel: Isaac A. Arasteh, FERN FLOMENHAFT

Judges: Janice A. Taylor

Disposition: Testimony criticized; outcome unknown.

Retained by: plaintiff

Case Summary: According to the Reply Affirmation, it was stated that The affidavit of expert Scott Silberman is clearly nothing more than blatant speculation. Mr. Silberman averred that uniform riser heights are crucial to safety and expects this court to speculate based on Mr. Silberman's conclusion that the differential in riser height on the fifth step must have been the cause of plaintiff's fall. The outcome of the criticism is unknown.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 81460

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Giraldo V. Brookfield Fin. Props., L.P.

Citation: *; 2018 N.Y. Misc. LEXIS 5901;2018 NY Slip Op 33112(U);2018 WL 6413530;2018 WL 6519200*

Docket Number: 0159689/2014

Area of Law: Personal Injury

Jurisdiction: State

Court: Supreme Court Of New York, New York County

Counsel: Edelman Krasin & Jaye, PLLC, Robert J. Brown, Esq., Law Office Of Robert J. Brown, PLLC, 875 Third Avenue, 28th Floor, New York, N.Y. 10022, Tel: (212) 784-3303

Judges: Gerald Lebovits

Disposition: Testimony insufficient to defeat 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 Defendants motion for summary judgment.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 81405

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Rodriguez V. Janjan Realty Corp

Citation: ; 2015 WL 4508614;2015 WL 4508624;2015 WL 4654384

Docket Number: 1586682012

Area of Law: Premises Liability

Jurisdiction: State

Court: Supreme Court Of New York, New York County

Counsel: Not Mentioned, Frank Filopei, Esq., William Ricicliano, P.C., 232 Madison Avenue - Suite 1200, New York, New York 10016, (212) 725-5755

Judges: Shlomo Hagler

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

Retained by: plaintiff

Case Summary: Plaintiff filed its expert Silberman's 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 81315

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Agbosasa v. The City of New York

Citation: ; 2017 WL 11571946;2019 WL 10959821;2019 WL 10959823;2019 WL 10959824;2019 WL 10959826

Docket Number: 75572/11,9475/2011

Area of Law: Negligence

Jurisdiction: State

Court: Supreme Court of New York. Kings County

Counsel: Jordan Hecht, Robert Modica

Judges: Karen B. Rothenberg

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 81239

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Hadida V. Austin Ventures, Corp.

Citation: *; 2007 WL 5131002;2008 N.Y. App. Div. LEXIS 2728;2008 NY Slip Op 2790;49 A.D.3d 812;853 N.Y.S.2d 904*

Docket Number: 2007-01058

Area of Law: Personal Injury

Jurisdiction: State

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

Counsel: Henry Schwartz, New York, N.Y, Wade Clark Mulcahy

Judges: William F. Mastro

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 81229

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Lonardo V. Common Ground Community IV Hous. De v. Fund Corp

Citation: *; 2018 NY S. Ct. Motions LEXIS 40593*

Docket Number: 158061/2017

Area of Law: Personal Injury

Jurisdiction: State

Court: Supreme Court Of New York, New York County

Counsel: Douglas Herbert, Brooklyn, NY, Brownell Partners, Pllc, Richard J. Brownell, Esq., New York

Judges: Not Mentioned

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

Retained by: defendant

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 81188

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Esquivel V. 2707 Creston Realty, LLC

Citation: *; 149 A.D.3d 1040;2014 WL 12744511;2015 WL 13801884;2015 WL 13801886;2017 N.Y. App. Div. LEXIS 3102;2017 NY Slip Op 03155;52 N.Y.S.3d 484*

Docket Number: 2015-01032,230252010

Area of Law: Personal Injury

Jurisdiction: State

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

Counsel: Elizabeth Mark Meyerson, Mark J. Rayo, P.C., 600 Old Country Road, Suite 323, Garden City, New York 11530, (516) 683-8888, William T. O'connell, Goldberg Segalla LLP, 11 Martine Avenue, Suite 750, White Plains, New York 10606, (914) 798-5400

Judges: Robert A. Bruno

Disposition: Testimony properly found insufficient to win grant of motion for partial summary judgment; affirmed.

Retained by: plaintiff

Case Summary: According to the Brief For Plaintiffs-Respondents-Appellants, it was stated that The Plaintiff's motion, supported by the affidavit of Engineer Scott M. Silberman (R. 254) showed that the exposed metal ladder rungs were defective and failed to provide adequate protection in four respects: there was nothing to hold onto while climbing down, the rungs had insufficient slip resistance and limited foot-contact area, there was insufficient clearance from the doorway and from the wall itself, and the rungs were not shielded from rain. R. 255-256 Para. 4. It was further stated that The Motion Court denied Plaintiffs motion and Defendant's cross-motion as to the 240(1) claim (R. 10), and dismissed the Labor Law Section 200 and common law negligence claims (R. 11) as well as the *8 241(6) cause of action which Esquivel did not oppose. This appeal and cross-appeal followed. The judgment was affirmed.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 81146

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: SALINAS V. 225 EAST MOSHOLU, LLC

Citation: ; 2018 WL 3339389;2018 WL 3339391

Docket Number: 308919/2012

Area of Law: Personal Injury

Jurisdiction: State

Court: Supreme Court of New York. Bronx County

Counsel: Not Mentioned, Emilio F. Grillo, Esq.

Judges: Not Mentioned

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 81124

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Chen V. Hope Street Partners, LLC

Citation: ; 2012 WL 10007621

Docket Number: 110044/2009

Area of Law: Personal Injury

Jurisdiction: State

Court: Supreme Court, New York, New York County

Counsel: Popick & Rutman, PLLC, Baxter Smith & Shapiro, PC

Judges: Carol Robinson Edmead

Disposition: Testimony found to be conclusory.

Retained by: plaintiff

Case Summary: The Court held that The First Department held that section 23-5.1(c)(1), requiring that all scaffolding shall be so constructed as to bear four times the maximum weight required to be dependent therefrom or placed thereon when in use, is insufficiently specific to serve as a predicate of a Labor Law 241 (6) claim (Macedo v J.D. Posillico, Inc., 68 AD3d 508, 891 NYS2d 46 1st Dept 2009, citing Greaves v Obayashi Corp. 55 AD3d 409, 410, 866 NYS2d 47 , lv dismissed 12 NY3d 794, 879 NYS2d 39). And in any event, plaintiff's expert's Silberman's attestation that the subject plank was prone to collapse is conclusory as it is not supported by results of any weight measurements or tests to demonstrate that the plank failed its weight-bearing requirement under this section. Thus, summary judgment on the claim predicted on the violation of section 23-5.1(c)(1) is unwarranted.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 80992

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Salinas V. Dorrian's Rest. Bar

Citation: *; 168 N.Y.S.3d 52;2021 N.Y. Misc. LEXIS 996;2021 NY Slip Op 30724(U);2021 WL 8446072;2021 WL 878911;2022 N.Y. App. Div. LEXIS 2871;2022 NY APP. DIV. BRIEFS LEXIS 661;2022 NY Slip Op 02966;2022 WL 1572755;2022 WL 1572759;205 A.D.3d 439*

Docket Number: 152968/2013,2021-01051

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: PAZER, EPSTEIN, JAFFE & FEIN P.C., LAW OFFICES OF MICHAEL E. PRESSMAN

Judges: Margaret A. Pui Yee Chan

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

Retained by: plaintiff

Case Summary: Plaintiff had filed its expert Silberman's testimony in support of its 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 80975

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: HOWARD V. ALEXANDRA RESTAURANT

Citation: ; 2011 WL 12524737;2014 WL 3699483

Docket Number: 5007,5008

Area of Law: Negligence

Jurisdiction: State

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

Counsel: Arnold E. DiJoseph, III, Arnold E. DiJoseph, P.C., 50 Broadway, Suite 1601, New York, New York 10004, 212-344-7858, adijoseph @adjlaw.com, Gibson & Behman, P.C., 14 Wall Street, Suite 5c, New York, New York 10005, (212) 609-2634, bpevzner@gibsonbehman

Judges: Angela M. Mazzarelli, John W. Sweeny, Jr., Leland G. DeGrasse, Rosalyn H. Richter, Sallie Manzanet-Daniels

Disposition: Report 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 report in opposition to Defendant's motion for summary judgment. The Court denied the motion at trial. The outcome of appeal is unknown.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 80920

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: GARCIA-ROSALES V. 370 SEVENTH AVENUE ASSOCIATES, LLC

Citation: ; 2010 WL 2754094;2010 WL 9460765

Docket Number: 1148632007

Area of Law: Personal Injury

Jurisdiction: State

Court: Supreme Court of New York

Counsel: Joshua N. Stein, Greenberg & Stein, P.C., Hitchcock & Cummings, LLP, Christopher Hitchcock

Judges: Jane S. Solomon

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 for summary judgment.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 80881

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Ochoa V. Executive Fitness & Nutrition, Inc.

Citation: *; 2017 NY S. Ct. Motions LEXIS 74318;2017 WL 11668819*

Docket Number: 701555/2015

Area of Law: Negligence

Jurisdiction: State

Court: Supreme Court Of New York, Queens County

Counsel: Omrani & Taub, P.C., New York, Gialleonardo, Frankini & Harms, Michele A. Musarra, Esq., Mineola, New York

Judges: Alan B. Weiss

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 80860

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Dale JONES V. 550 REALTY HEIGHTS LLC.

Citation: ; 2011 WL 13253876;2011 WL 970542;2011 WL 970543

Docket Number: 102617/08,6141

Area of Law: Negligence

Jurisdiction: State

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

Counsel: Frank Filopei, Brendan T. Fitzpatrick, Ahmuty. Demers & McMaxus, 200 I.U. Willets Road, Albertson, New York 1150, 516-294-5433, brendan.fitzpatrick@admlaw.com

Judges: Marcy S. Friedman

Disposition: Testimony criticized; outcome unknown.

Retained by: plaintiff

Case Summary: According to the Brief for Defendants-Appellants, it was stated that Even if this Court considered Silberman's opinion, dismissal was warranted. The photographs showed that there was no defective condition with the step. As for the allegations of improper lighting and the lack of handrails, these allegations failed. Jones never testified that either of these conditions played a part in this incident. Further, there was a handrail present, but Jones chose not to use it. As for Silberman's claims concerning the defect with the step, Jones testified that his entire foot was on the step, before the step's tip. (R. 77) While he claimed it was worn, his foot was not on the nosing of the step when he slipped. Therefore, Silberman's opinions were unsupported by the facts and should be rejected as conclusory and speculative and insufficient to defeat 550 Realty's summary-judgment motion. The outcome of the criticism is unknown.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 80829

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Castore V. Tutto Bene Restaurant Inc.

Citation: *; 2010 N.Y. App. Div. LEXIS 7734;2010 NY Slip Op 7695;2010 WL 9022065;77 A.D.3d 599;909 N.Y.S.2d 452*

Docket Number: 2010-03516

Area of Law: Personal Injury

Jurisdiction: State

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

Counsel: Segan, Nemerov & Singer, P.C., 112 Madison Avenue, New York, New York 10016, (212) 696-9100, Fixler & Lagattuta, LLP, 61 Broadway, Suite 1105, New York, New York 10006, (212) 785-9800, Name@Email.Com

Judges: David B. Saxe, Rolando T. Acosta, Helen E. Freedman, Rosalyn H. Richter, Sheila Abdus-Salaam

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

Retained by: plaintiff

Case Summary: According to the Brief For Defendant-Respondent, it was stated that The second reason the findings of Scott Silberman, P.E. should be rejected by this court is that the first time identified Ms. Silberman as an expert was in opposition to the motion for summary judgment and long after the filing of the Note of Issue (R.274-279). Appellant served the Note of Issue December 22, 2008 (R.257-258), which is approximately ten ?? Mr, Silberman inspected defendant's premises without -, Additionally, the motion for summary judgment ?? 10, 2009 (R.7) and appellant's opposition with the it. was served on April 15, 2009 (R.280). The expert ?? the first time more than fourteen months after conducting the unauthorized inspection of respondent's restaurant, more than four months after the filing of the Note of Issue and more than two months after the motion for summary judgment was served. The judgment was affirmed.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 80801

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Criollo V. Jobco Inc.

Citation: *; 2018 NY S. Ct. Motions LEXIS 12405;2018 WL 11016575*

Docket Number: 600371/2017

Area of Law: Personal Injury

Jurisdiction: State

Court: Supreme Court Of New York, Nassau County

Counsel: David Godosky, E'sq., WOOD SMITH HENNING & BERMAN LLP, Tracy J. Abatemarco, Esq.

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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2022 DAUBTR LEXIS 80682

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Gunther V. Airtran Holdings, Inc.

Citation: *; 2006 WL 4805873;2007 U.S. Dist. LEXIS 7424*

Docket Number: 1:05cv2134

Area of Law: Personal Injury

Jurisdiction: Federal

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

Counsel: Eric M. Babat, Esq. (EB-5573), Newman & Okun, P.C., 8 West 38th Street, 9th Fl., New York, New York 10018, (212) 642-0950, Diane Westwood Wilson, Lead Attorney, Condon And Forsyth Llp, New York, Ny; Steven M. Raffaele, Lead Attorney, Condon & Forsyth, New York, NY

Judges: Michael H. Dolinger

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

Retained by: defendant

Case Summary: Defendant filed its expert Silbermans testimony 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 80614

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Kahn V. Town Sports Int'l, Inc.

Citation: *; 2005 U.S. Dist. Ct. Motions LEXIS 25726;2005 U.S. Dist. Ct. Motions LEXIS 25727;2005 U.S. Dist. LEXIS 19625*

Docket Number: 1:03cv9046

Area of Law: Personal Injury

Jurisdiction: Federal

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

Counsel: Joshua N. Stein, Greenberg & Stein, New York, NY, Donald G. Derrico, Wilson, Elser, Moskowitz, Edelman & Dicker, LLP, White Plains, NY

Judges: Andrew J. Peck

Disposition: Motion to exclude granted in part and denied in part.

Retained by: plaintiff

Case Summary: Plaintiff Douglas Kahn filed suit against Defendant New York Sports Club after Plaintiff slipped and was injured as he attempted to step from the first to the second seating level in the steam room at the New York Sports Club. Plaintiff's expert, engineer Scott Silberman, submitted an expert report concluding that the two level seating area also functioned as a stairway that did not conform to the City building code. Defendants moved to preclude that aspect of Silberman's expert testimony and a second aspect dealing with the coefficient of friction of the seating area. The Court noted that Administrative Code of the City of New York § 27-375 governed the construction and maintenance of interior stairs that provide a means of exit from a building. The Court noted that the levels of seating in a steam room do not act as an interior staircase used as a means of egress from the building under the Administrative Code of the City of New York. Therefore Silberman's testimony about Administrative Code § 27-375 was precluded. Defendants also argued that Silberman should not be allowed to testify as to the coefficient of friction on the tiles of the steam room seating levels because he did not take into account the fact that Plaintiff was wearing something on his feet when the accident occurred. The Court was unpersuaded that Silberman's testimony was rendered unduly speculative and not based upon evidence because he did not take . . . into account that Plaintiff was wearing something on his feet when the accident occurred. Defendants also argued that Silberman should be precluded from testifying at trial because Plaintiff cannot rely upon a low coefficient of friction value to assert a negligence claim against Defendants. The Court noted that Defendants were correct that a failure to provide a non-slip surface did not constitute negligence per se. However, the Court noted that this evidence could be introduced at trial as to the issue of Defendants' negligence. Thus, Silberman was not precluded from testifying as to the coefficient of friction of the seating area. Motion to exclude granted in part and denied in part.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 80592

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: RIOS V. NEW YORK CITY HOUSING AUTHORITY

Citation: ; 2006 WL 6349159;2006 WL 6492414;2007 WL 5036452;2007 WL 5036453

Docket Number: 2002-28110,2006-10743

Area of Law: Negligence

Jurisdiction: State

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

Counsel: Yana M. Zukher, Esq., Herzfeld & Rubin, P.C., Appellate Counsel to Lester Schwab Katz & Dwyer, LLP

Judges: DAVID S. RITTER

Disposition: Affidavit insufficient to defeat grant of motion to dismiss 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 to dismiss. The trial Court granted the motion. The outcome of appeal is unknown.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 80578

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: RIVERA V. LEE

Citation: ; 2020 WL 7774437

Docket Number: 708680/18

Area of Law: Personal Injury

Jurisdiction: State

Court: Supreme Court of New York. Queens County

Counsel: Not Mentioned, Not Mentioned

Judges: Rudolph E. Greco, Jr.

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 80576

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Richard Wager Et Al V. Peter Gisolfi Associates, Architecture.Landscape Architecture, Llp Et Al

Citation: ; Not Applicable

Docket Number: 68572/2012

Area of Law: Tort Law

Jurisdiction: State

Court: New York State, Westchester County, Supreme Court

Counsel: John P. Beatty, Siobhan A. Healy

Judges: Not Mentioned

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

Retained by: defendant

Case Summary: Defendant 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 80538

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Robine V. Highrose Ridge Homeowners Ass'n, Inc

Citation: *; 2018 NY S. Ct. Motions LEXIS 16962;2018 NY S. Ct. Motions LEXIS 3613;2018 NY S. Ct. Motions LEXIS 3637*

Docket Number: 2016-50676

Area of Law: Negligence

Jurisdiction: State

Court: Supreme Court Of New York, Dutchess County

Counsel: Ted A. Novick, Burke, Scolamiero & Hurd, Llp, Melissa J. Smallacombe, Esq.

Judges: Maria G. Rosa

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 80529

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Tesher V. Sol Goldman In vs. , LLC

Citation: *; 2011 N.Y. Misc. LEXIS 2644;2011 NY Slip Op 31457(U);2011 WL 2513499*

Docket Number: 115878/06

Area of Law: Personal Injury

Jurisdiction: State

Court: Supreme Court of New York, New York County

Counsel: Henry Schwartz, Esq., Brooklyn, New York, Margaret G. Klein & Associates, New York, New York

Judges: Saliann Scarpulla

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.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 80513

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Anderson V. Creston Associates, Llc

Citation: ; 2008 WL 8169415;2009 WL 438331

Docket Number: 5326

Area of Law: Premises Liability

Jurisdiction: State

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

Counsel: Andrew M. Laskin, Esq., Robinson & Yablon, P.C., 232 Madison Avenue, Ste. 1200, New York, New York 10016, (212) 725-8566, Fiedelman & Mcgaw, Two Jericho Plaza -- Suite 300, Jericho, New York 11753, (516) 822-8900, Appellate Counsel ; For Law Offices Of Alan I. Lamer, 555 Taxter Road, Elmsford, New York 10523, (914) 785-5300

Judges: Howard R. Silver

Disposition: Testimony improperly found sufficient to win grant of motion for summary judgment; reversed and remanded on appeal.

Retained by: plaintiff

Case Summary: According to the Brief On Behalf Of Defendant-Appellant Creston Associates, Llc it was stated that By notice of motion dated August 6, 2007, plaintiff moved for an order of summary judgment on the issue of liability pursuant to General Municipal Law §250-e in favor of plaintiff and to set the matter down for discovery as to damages only (R 9-10). In so doing, plaintiff argued that she had demonstrated valid predicate statutory violations for liability under the General Municipal Law inasmuch as plaintiff had established violations of Multiple Dwelling Law §78, Multiple Dwelling Law §52, Multiple Dwelling Law §52(3) and §§ 27-127, 27-381 (a), 27-2038 and 27-375 of the New York City Administrative Code (R 14-15). In support of her motion, plaintiff relied on the affidavit of Scott Silberman, a professional engineer, who reviewed the pleadings, bill of particulars, and photographs of the location, as well as the affidavit of plaintiff (R 34). Scott Silberman conducted a site inspection of the subject premises; however, he acknowledged in his report that the inspection occurred approximately one and one-half years subsequent to the incident date (R 23 & 35). He maintained that he was advised by plaintiff that the conditions observed by him on the inspection date were substantially the same as those in existence on the date of the loss (R 34). Mr. Silberman concluded that there was a lengthy history of water leaks from the skylight above the subject interior stairway (R 35). Mr. Silberman categorized this as a recurring condition which the owner elected not to fix but rather patched with the installation of plywood panel in the skylight (R 35). Mr. Silberman opined that instead of replacing this entire skylight and properly flashing and sealing all of the seams, the repair that was done did not correct the water leak problems (R 35). In addition, he opined that the stairway and its handrail must be repaired to provide a safe means for passage for those persons who utilize them and that there were various ordinances which were violated by the defendant in this regard (R 36). The trial court had granted Plaintiffs motion for summary judgment. The judgment was reversed and remanded on appeal.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 80444

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Quiros V. Bi-Coastal Properties, LLC

Citation: ; 2012 WL 6765509

Docket Number: 23880/05

Area of Law: Negligence

Jurisdiction: State

Court: Supreme Court Of New York, Bronx County

Counsel: Lipsig, Shapey, Manus & Moverman, P.C., Glenn P. Dolan, 40 Fulton Street, 25th Floor, New York, NY 10038, (212) 285-3300, Jeffrey Samel & Partners, Michael Pomposello, 150 Broadway--20th Floor, New York, New York 10038, (212) 587-9690

Judges: Maryann Brigantti-Hughes

Disposition: Motion to preclude filed; outcome unknown.

Retained by: plaintiff

Case Summary: The outcome of Defendants motion to preclude Plaintiffs expert Silbermans testimony is unknown.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 80417

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Lishnevski V. Driggs Broadway LLC & Weylin Seymour LLC

Citation: *; 2017 NY S. Ct. Motions LEXIS 16934;2017 NY S. Ct. Motions LEXIS 18622;2017 NY S. Ct. Motions LEXIS 62986;2017 NY S. Ct. Motions LEXIS 63069;2017 NY S. Ct. Motions LEXIS 63307;2017 NY S. Ct. Motions LEXIS 64384*

Docket Number: 503740/2015

Area of Law: Premises Liability

Jurisdiction: State

Court: Supreme Court Of New York, Kings County

Counsel: Adam L. Birbrower, Havkins Rosenfeld Ritzert & Varriale, LLP, Michelle L. Bochner, Esq.

Judges: Wavny Toussaint

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 80394

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: TIAN V. EMBASSY COOP.

Citation: *; 2017 NY S. Ct. Motions LEXIS 86315;2017 WL 11632002;2017 WL 11632003;2017 WL 11633190*

Docket Number: 701110/2015

Area of Law: Personal Injury

Jurisdiction: State

Court: SUPREME COURT OF NEW YORK, QUEENS COUNTY

Counsel: James E Gear, Michele Schuster

Judges: Allan B. Weiss

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 80311

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: SCHLOSS V. TEARS REALTY CORP

Citation: ; 2017 WL 1753939

Docket Number: 162797/2014

Area of Law: Negligence

Jurisdiction: State

Court: Supreme Court of New York. New York County

Counsel: Pollack, Pollack, Isaac & De Cicco, FERN FLOMENHAFT PLLC

Judges: Nancy M. Bannon

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

Retained by: plaintiff

Case Summary: Plantiff 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 80297

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Linda De Los Reyes V. Duane Reade Inc. Et Al

Citation: ; Not Applicable

Docket Number: 707179/2016

Area of Law: Negligence

Jurisdiction: State

Court: New York State, Queens County, Supreme Court

Counsel: Alex A. Omrani, Louis Patrick Giordano

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 80260

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Ceron V. Yeshiva Uni v.

Citation: *; 126 A.D.3d 630;2013 N.Y. Misc. LEXIS 4378;2013 NY Slip Op 32307(U);2013 WL 12214177;2013 WL 12214178;2013 WL 5492889;2014 WL 8880351;2014 WL 8880352;2015 N.Y. App. Div. LEXIS 2694;2015 NY Slip Op 02680;7 N.Y.S.3d 66*

Docket Number: 100328/11,14046,14047

Area of Law: Premises Liability

Jurisdiction: State

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

Counsel: The Sullivan Law Firm, New York (James A. Domini Of Counsel), Molod Spitz & Desantis, P.C., New York (Marcy Sonneborn Of Counsel)

Judges: Mazzarelli, DeGrasse, Richter, Clark

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

Retained by: plaintiff

Case Summary: According to its decision dated March 31, 2015, it was noted that Defendant submitted an expert affidavit by professional engineer James J. Bernitt, in which he stated that he tested the ramp's frictional characteristics and found that, under both wet and dry conditions, the ramp was a safe surface and not a slip hazard. In opposition to defendant's summary judgment motion, plaintiff submitted an expert report by professional engineer Scott Silberman. Silberman looked at the ramp 2? years after the accident, but did not perform any tests on it. Silberman observed that the ramp was worn, smooth and polished and that friction tape had been installed at approximately seven-inch intervals. It was further noted that The motion court properly found that defendant made a prima facie showing that there was no dangerous condition in existence when plaintiff slipped and fell, and that it was therefore entitled to summary judgment. In opposition, plaintiff failed to raise a triable issue of fact. The judgment was affirmed.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 80219

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Helen Cruises V. V&J Realty Co

Citation: *; 2018 NY S. Ct. Motions LEXIS 2796;2018 NY S. Ct. Motions LEXIS 2810*

Docket Number: 700616/2016

Area of Law: Personal Injury

Jurisdiction: State

Court: Supreme Court Of New York, Queens County

Counsel: Issac A. Arasteh, Esq., Omrani & Taub, P.C., New York, Fern Flomenhaft

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 80207

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Morales V. The City Of New York

Citation: ; 2017 WL 9916166

Docket Number: 000823/2015

Area of Law: Premises Liability

Jurisdiction: State

Court: Supreme Court Of New York, Queens County

Counsel: Martin Grossman, Esq., Charlie Green, Jr.

Judges: Ernest F. Hart

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

Retained by: plaintiff

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

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 80200

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: WASHINGTON V. TOMPKINS LANDSCAPING CORP

Citation: ; 2019 WL 13155015;2019 WL 13155017;2019 WL 13171547

Docket Number: 67634/2017

Area of Law: Personal Injury

Jurisdiction: State

Court: Supreme Court of New York

Counsel: Michael H. Zhu, Jay C. Campbell

Judges: William J. Giacomo, Joan B. Lefkowitz

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

Retained by: plaintiff

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

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 80194

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Belluck V. Town Of North Hempstead

Citation: *; 2019 NY S. Ct. Motions LEXIS 10437;2019 NY S. Ct. Motions LEXIS 9971;2019 WL 13089183;2019 WL 13089184*

Docket Number: 611046/17

Area of Law: Premises Liability

Jurisdiction: State

Court: Supreme Court Of New York, Nassau County

Counsel: Thomas J. Schiro, Lorienton N.A. Palmer

Judges: James P. McCormack

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 80190

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Gunzburg V. Quality Bldg. Ser v. Corp.

Citation: *; 2014 N.Y. Misc. LEXIS 2991;2014 NY Slip Op 31725(U);2014 WL 3381740;2015 WL 13774689;2018 WL 6990389*

Docket Number: 115910/2009,354

Area of Law: Premises Liability

Jurisdiction: State

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

Counsel: Susan R. Nudelman, Esq., Michael Gunzburg, P.C., 950 Third Avenue, 11th Floor, New York, New York 10022, (212) 725-8500, michael@gunzburglaw.com, Joseph Horowitz, The Law Offices Of Leon R. Kowalski, McGaw, Alventosa & Zajac, 2 Jericho Plaza, Suite 202, Jericho, New York 11753, 516-822-8900, joseph.horowitz@aig.com

Judges: Louis B. York

Disposition: Testimony found insufficient to win cross-motion for summary judgment; outcome of appeal is unknown.

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. Subsequently, Plaintiff appealed. The outcome of appeal is unknown.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 80145

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: BROWN V. LANDGRAY ASSOCS.

Citation: *; 2018 NY S. Ct. Motions LEXIS 14191;2018 NY S. Ct. Motions LEXIS 15272*

Docket Number: 508547/2015

Area of Law: Negligence

Jurisdiction: State

Court: SUPREME COURT OF NEW YORK, KINGS COUNTY

Counsel: DOUGLAS & LONDON, P.C., The Law Office of Eric D. Feldman

Judges: Not Mentioned

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

Retained by: plaintiff

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

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 80128

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Pedro Barrionuevo V. 309 West 75th Street Owners Corp.

Citation: ; Not Applicable

Docket Number: 702773/2014

Area of Law: Tort Law

Jurisdiction: State

Court: New York State, Queens County, Supreme Court

Counsel: William P. Hepner, Laurence Gerard Mcdonnell

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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2022 DAUBTR LEXIS 80088

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Roa V. City Of New York

Citation: *; 2019 WL 2016346;2020 NY APP. DIV. BRIEFS LEXIS 1357;2020 NY APP. DIV. BRIEFS LEXIS 1622;2020 NY APP. DIV. BRIEFS LEXIS 1623;2020 WL 6384985;2020 WL 6384986;2020 WL 6384987;2021 WL 2336759*

Docket Number: 155116/2016,2019-4312

Area of Law: Personal Injury

Jurisdiction: State

Court: Supreme Court Of New York, New York County, SUPREME COURT OF NEW YORK, APPELLATE DIVISION, FIRST DEPARTMENT

Counsel: Herbert S. Subin, Cole Pedroza

Judges: Julio Rodriguez, III

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

Retained by: plaintiff

Case Summary: Plaintiff filed its expert Silberman's testimony in support of its motion for summary judgment. The Court denied Plaintiffs motion for summary judgment at trial. The outcome of appeal is unknown.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 80084

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: GIBBS V. TRUSTEES OF COLUMBIA UNIV. IN NEW YORK

Citation: *; 2016 NY S. Ct. Motions LEXIS 10802*

Docket Number: 23327/2015

Area of Law: Negligence

Jurisdiction: State

Court: SUPREME COURT OF NEW YORK, BRONX COUNTY

Counsel: Not Mentioned, Jason Michael Romeo

Judges: Not Mentioned

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 Defendant's motion for summary judgment. The outcome of the motion is unknown.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 80081

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Richards V. Sullivan

Citation: *; 2019 NY S. Ct. Motions LEXIS 821*

Docket Number: 503516/2016

Area of Law: Negligence

Jurisdiction: State

Court: Supreme Court Of New York, Kings County

Counsel: Rockville Centre, New York, Steven B. Drelich, Esq., Our File No: 22189, Not Mentioned

Judges: Not Mentioned

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

Retained by: plaintiff

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

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 79912

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Gwynneth EDDY V. SAMJUST REAL ESTATE CORP.

Citation: ; 2017 WL 8232887

Docket Number: 226952012

Area of Law: Personal Injury

Jurisdiction: State

Court: Supreme Court of New York. Bronx County

Counsel: Not mntioned, Anthony J. Abruscati

Judges: Lizbeth Gonzalez

Disposition: Testimony criticized; outcome unknown.

Retained by: plaintiff

Case Summary: According to the Reply Affirmation, it was stated that Plaintiff's expert Scott M. Silberman performed a site inspection on April 21, 2016, approximately 9 months prior to plaintiff serving his report as an exhibit in opposition to defendants motion for summary judgment. It should also be noted that curiously, his report contains no photographs despite his claim that he took a number of photos. The outcome of the criticism is unknown.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 79874

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: HABER V. CVS PHARMACY, INC.

Citation: ; 2021 WL 1590692

Docket Number: 2020-07991

Area of Law: Personal Injury

Jurisdiction: State

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

Counsel: Jeremy Schiowitz, Esq., Isaacson, Schiowitz & Korson, LLP, 371 Merrick Road, Suite 302, Rockville Centre, New York 11570, (516) 208-1300, jschiowitz @iskslaw.com, Not Mentioned

Judges: Not Mentioned

Disposition: Testimony not relied upon at trial; outcome of appeal is unknown.

Retained by: plaintiff

Case Summary: According to the Brief for Plaintiff-Appellant, it was stated that The lower court found that the affidavit and report of plaintiff's engineer, Scott Silberman, failed to create an issue of fact for two reasons. First, he inspected the accident site over two years after the accident and fails to compare his observations during his inspection to photographs taken immediately following the accident or state that the condition was the same as the date of the accident. Second, the court found that Mr. Silberman failed to render a coherent opinion that the subject defect is not trivial or de minimis. The outcome of appeal is unknown.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 79853

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Lovell V. Thompson

Citation: *; 143 A.D.3d 511;2016 N.Y. App. Div. LEXIS 6643;2016 NY Slip Op 06736;2016 WL 11532058;2016 WL 11532059;39 N.Y.S.3d 420*

Docket Number: 1877

Area of Law: Personal Injury

Jurisdiction: State

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

Counsel: Louis A. Badolato, Anthony J. Cugini, Jr., Esq., P.C., 5906a Riverdale Avenue, Riverdale, New York 10471, 718-884-0100, Acjresq@Yahoo.Com, Penino & Moynihan, LLP, 1025 Westchester Avenue, Suite 403, White Plains, New York 10604, (914) 949-6996, Hliao@Peninomoynihanlaw.Com

Judges: David Friedman, Rosalyn H. Richter, Paul G. Feinman, Barbara R. Kapnick, Marcy L. Kahn

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

Retained by: plaintiff

Case Summary: According to the Brief For Defendants-Respondents, it was stated that The assertion by the plaintiff-appellants (plaintiffs) that the affidavit of their expert engineer, Scott Silberman, P.E. (Silberman) establishes that the steps were hazardous is irrelevant absent evidence that the defendants created or had notice of the alleged hazard. Nothing in the record, including Silberman's affidavit, indicates that the hazard alleged was created by the defendants or that the defendants had actual or constructive notice of same. Plaintiffs' assertion that the unsworn statement of non-party witness Barry Hunter (Hunter) is admissible because it was not the only evidence submitted is without merit. Assuming arguendo that Hunter's statement is admissible, it is irrelevant as it does not allege any facts which, if true, demonstrate that the defendants created or had notice of the hazard alleged. The decision below should be affirmed accordingly. The judgment was affirmed.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 79583

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Landin V. CJS Building & Development Corporation

Citation: ; 2008 WL 11404490

Docket Number: 1070822004

Area of Law: Negligence

Jurisdiction: State

Court: Supreme Court Of New York

Counsel: Ellen August, David Kuehn, Goetz Fitzpatrick LLP, One Penn Plaza, 44th Floor, New York, New York 10119, (212) 695-8100, Not Mentioned

Judges: Emily Jane Goodman

Disposition: Testimony criticized; outcome unknown.

Retained by: plaintiff

Case Summary: According to Memorandum of Law in Further Support of Motion of Defendant the 29 Howard Street Condominium for Summary Judgment and in Opposition to Cross-Motion of Plaintiff for Leave to Amend Complaint and Bill of Particulars it was found that The expert affidavit of Scott M. Silberman (Silberman Affidavit) is speculative, conclusory and unsupported by any empirical data. The vast majority of the affidavit is a recitation of the allegations in the Complaint, in the Landin Affidavit and in the Salottolo Affirmation. The affidavit does not state that the expert reviewed the Dunne or Kelly affidavits, nor does the affidavit address have any of the opposing evidence. The outcome of criticism is unknown.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 79535

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: LEWIS V. MANAGEMENT

Citation: ; 2018 WL 11379767

Docket Number: 031695/2016

Area of Law: Personal Injury

Jurisdiction: State

Court: Supreme Court of New York. Rockland County

Counsel: Jeffrey A. Aronsky, 800 Second Avenue, New York, New York 10017, (212) 577-6600, Nadia Ali. Esq., Alan B. Brill. P.C.

Judges: Thomas E. Walsh, II

Disposition: Report cited in opposition to motion for summary judgment; outcome unknown.

Case Summary: Plaintiff cited expert Silberman's report in opposition to Defendant's motion for summary judgment. The outcome of the motion is unknown.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 79489

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Shammah V. 1219 McDonald LLC

Citation: *; 2018 NY S. Ct. Motions LEXIS 13316*

Docket Number: 505343/2016

Area of Law: Premises Liability

Jurisdiction: State

Court: Supreme Court Of New York, Kings County

Counsel: Joshua W. Sktllman, Esq, Not Mentioned

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 79478

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Peters V. Structure Tone, Inc.

Citation: *; 2019 WL 13191752;2020 N.Y. Misc. LEXIS 9733;2020 NY Slip Op 33583(U);2020 WL 13413387;2020 WL 13413390;2020 WL 6321754;2021 WL 8567669;2022 WL 1572537;2022 WL 1572541*

Docket Number: 155065/15,2020-04597

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: PAZER, EPSTEIN, JAFFE & FEIN P.C., BARRY MCTIERNAN & MOORE LLC

Judges: Lynn R. Kotler

Disposition: Testimony admissible at trial; outcome unknown.

Retained by: plaintiff

Case Summary: According to Brief for Defendants-Appellants it was found that Mr. Silberman's report does not address the height between floors or the weight of the alleged particles that fell; Plaintiffs deposition testimony where he said the only workers above him were on the 11th floor (R. 129-130); the statement of Mr. McArthur that the debris fell from the 11th floor (R. 97-598) or the statement of Steve Gilbert stating any debris came from the 11th floor (R. 600-601). Mr. Silberman failed to undertake any analysis of the two Industrial Code provisions alleged, 12 NYCRR 23-2.5(a)(1) and 23-1.7(a)(1) to demonstrate that they were violated. 12 NYCRR 23-2.5(a)(1) requires protection located at a point in the shaft not more than two stories or 30 feet above the level where the person is working. Of course, since he failed to take any measurements, or review any plans associated with the site his report is purely speculative. Based on the facts presented, he offered no basis to support his claims that 12 NYCRR 23-2.5(a)(1) was violated. It was further found that Mr. Silbermans affidavit opining there was a violation of the Labor Law is purely speculative and unsupported. Here, Plaintiffs expert affidavit is speculative, conclusory, lacking in probative force and entitled to no weight. Yet the Supreme Court completely relied upon that affidavit in granting summary judgment in favor of the Plaintiff on the statutory claims. The outcome of appeal is unknown.

Ground(s) of Challenge: Others

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2022 DAUBTR LEXIS 79395

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Darrius Brown V. Mount Sinai Hospital Et Al

Citation: ; Not Applicable

Docket Number: 150994/2013

Area of Law: Tort Law

Jurisdiction: State

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

Counsel: William P. Hepner, David Andreas Smetana

Judges: Manuel J. Mendez

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 79394

Daubert Tracker - Case Reports

Expert Name: Scott Michael Silberman P.E.

Discipline: Construction; Civil Engineering; Structural Engineering

Case Name: Gardner V. AAA Sutter Realty LLC & Gamestar Wireless

Citation: *; 2018 NY S. Ct. Motions LEXIS 25587;2018 NY S. Ct. Motions LEXIS 35737;2018 NY S. Ct. Motions LEXIS 36431*

Docket Number: 509040/2015

Area of Law: Premises Liability

Jurisdiction: State

Court: Supreme Court Of New York, Kings County

Counsel: Matthew C. Lombardi, Tolmage, Peskin, Harris & Falick, Hannum Feretic Prendergast & Merlino, LLC, Amanda M. Toombs, New York, New York; Hoffman Roth & Matlin, LLP

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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