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McDaniel v. City of New York

Supreme Court, Appellate Division, First Department, New York - October 4, 2022 - N.Y.S.3d - 2022 WL 4830527 - 2022 N.Y. Slip Op. 05501

Pedestrian who allegedly tripped and fell while walking in an uneven and cracked portion of crosswalk at intersection brought personal injury action against city, road-milling contractor that had performed work in the area a little over a year before pedestrian's alleged accident, and contractor that had installed electrical conduits in the area five years before the alleged accident.

The Supreme Court, Bronx County, denied city's and road-milling contractor's motions for summary judgment and denied the electrical-conduit contractor's motion for summary judgment. City and contractors appealed.

The Supreme Court, Appellate Division, held that:

- Genuine issue of material fact as to whether map of purported defects in city's sidewalks and streets satisfied prior written notice requirement under city's administrative code precluded summary judgment in favor of city;
- Road-milling contractor was not liable for pedestrian's injuries; and
- Electrical-conduit contractor was not liable for pedestrian's injuries.

Genuine issue of material fact existed as to whether defect identified on map of purported defects in city's sidewalks and streets, which city acknowledged receiving, was the uneven and cracked portion of crosswalk that pedestrian claimed caused her to trip and fall, so as to satisfy prior written notice requirement under city's administrative code, precluding summary judgment in favor of city in pedestrian's personal injury action.

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