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publication in the New York Reports.

No. 135 SSM 19
Dolores Parietti et al.,
Appellants,
v.
Wal-Mart Stores, Inc. et al.,
Respondents,
et al.,
Defendant.

Submitted by Justin B. Perri, for appellants.
Submitted by Patricia O'Connor, for respondents.

* * * * *

On review of submissions pursuant to section 500.11 of the Rules,
order reversed, with costs, and the motion of Wal-Mart Stores,
Inc. and Wal-Mart Stores East, L.P. for summary judgment
dismissing the complaint, insofar as asserted against them,
denied. In a slip-and-fall case, a defendant property owner
moving for summary judgment has the burden of making a prima
facie showing that it neither (1) affirmatively created the
hazardous condition nor (2) had actual or constructive notice of
the condition and a reasonable time to correct or warn about its
existence (see Lewis v Metropolitan Transp. Auth., 99 AD2d 246,
249 [1984], affd for reason stated below 64 NY2d 670 [1984]).
Triable issues of fact exist as to whether Wal-Mart Stores, Inc.
and Wal-Mart Stores East, L.P. had notice of a hazardous
condition and a reasonable time to correct or warn about its
existence. Chief Judge DiFiore and Judges Rivera, Stein, Fahey,
Garcia, Wilson and Feinman concur.

Decided September 14, 2017