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SHORT FORM ORDER

SUPREME COURT - STATE OF NEW YORK - COUNTY OF NASSAU
PRESENT: HONORABLE JOHN M. GALASSO, J.S.C.

ALICE FELDT,

Plaintiff,

- against -

CARAN LIEB,

Defendant.

Index No. 1007-2014
Sequence # 002
Part 24

11/14/16

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Upon the foregoing papers, defendant' motion for summary judgment for this slip and fall accident is granted.

This incident occurred at plaintiff Alice Feldt's place of employment, Clinical Therapeutic Services located in an office at the private home of defendant Caren Lieb and her husband. Plaintiff was a part-time medical biller for the company.

Plaintiff fell as she was leaving the office for the evening and walking toward her vehicle. Plaintiff alleges she slipped on ice on the driveway, an area alleged plowed by non-party Charlie Brown Snow Removal¹.

Defendant Lieb helped plaintiff fill out and file reports with the State Insurance Fund for Worker's Compensation on plaintiff's behalf. Plaintiff's employer was given as Clinical Therapeutic Services in both reports, C-2 and C-3. Caron Lieb was listed as plaintiff's supervisor.

Defendant argues that plaintiff cannot maintain an action against Caren Lieb because plaintiff's exclusive remedy lies with Worker's Compensation (See *Lawler v Donnelly*, 237 AD2d 413; see also *Sicktish v. Vulcan Industries*, 33 AD2d 975).

In opposition, plaintiff submits that only an action brought directly against plaintiff's employer, Clinical Therapeutic Services, is barred; defendant was not plaintiff's employer.

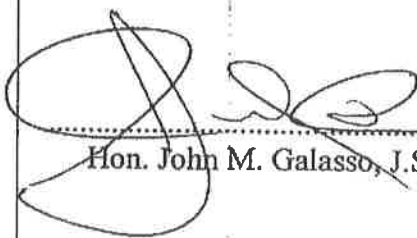
¹The walkway to the office had been shoveled by defendant's two sons but the area in which plaintiff fell was the driveway.

However, the Court determines that under the circumstances of this case, when defendant's duty as a co-employee is co-extensive with [her] duty as a homeowner of the premises" and defendant's relationship with plaintiff arises from their common employment, there is no sustainable action by plaintiff directly against defendant (*Lawler, supra*).

Defendant's motion is granted.

The complaint is dismissed.

December 6, 2016



Hon. John M. Galasso, J.S.C.

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