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This memorandum is uncorrected and subject to revision before
publication in the New York Reports.

No. 211 SSM 45
Verizon New York, Inc.,
Appellant,
v.
Paul J. Garvin,
Respondent,
et al.,
Defendant.
(And Another Action.)

Timothy J. Flynn, for appellant.
Pierre A. Vincent, for respondent.

MEMORANDUM:

The order of the Appellate Division should be affirmed,
with costs.

Defendant landowner was entitled to summary judgment
dismissing the complaint of plaintiff Verizon New York, Inc. for
property damages arising from a fire that originated on

defendant's premises. Defendant came forward with evidence that, less than a year before the fire, he installed smoke detectors that were inspected and deemed operable by a municipal inspector, contradicting plaintiff's claim that he negligently failed to install or maintain smoke detectors. In response, plaintiff did not raise a triable issue of fact by submitting proof in admissible form that the smoke detectors did not work on the day of the fire or that, prior to the incident, defendant had actual or constructive notice that they were not operable.

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On review of submissions pursuant to section 500.11 of the Rules, order affirmed, with costs, in a memorandum. Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

Decided November 24, 2009