

DAILY NEWS

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Judge Marcy Friedman says Gloria Clark, who is blind, can sue landlord of building where she fell

Guide-dog company also named in injury to Gloria Clark on upper East Side

BY [BARBARA ROSS](#) / NEW YORK DAILY NEWS

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KEVIN HAGEN

Gloria Clark's suit against upper East Side landlord can go forward, says Justice Marcy Friedman

An elderly blind woman who broke her hip on the upper East Side while auditioning for a new guide dog found out Wednesday that justice isn't blind — to goofy arguments.

Manhattan Supreme Court Justice Marcy Friedman said a landlord who owns the uneven sidewalk where [Gloria Clark](#) fell cannot duck her \$5 million lawsuit by arguing that she was blind and thus couldn't prove what caused her to fall.

"I walked past that spot for 26 years and for 26 years my [guide] dogs always walked me around that step. I never knew it was there. This time, I flew into the air and landed on my side. I fractured my hip," Clark said in a telephone interview.

The difference between the earlier walks and the one that landed Clark in the hospital in November 2008 was who was at the end of the harness.

The earlier walks were guided by trained guide dogs , but on the day she fell, a human named [James Gardner](#) was at the dog end of the harness .

Gardner, a trainer for Guiding Eye Dogs for the Blind, was taking Clark on a walk to evaluate what kind of dog she needed after her old dog, Klondike, died of cancer .

Clark's lawyer [Marius Wesser](#) said Gardner claimed in depositions that he was wearing a coat with his hood up to protect him from the heavy rain and didn't see the low wide step which protrudes from the front of 1275 Third Ave.

"Guiding Eye is a good organization. I got my last three dogs from them, but this time, the trainer they sent wasn't paying attention," Clark said.

The judge said she would let the lawsuit proceed against Jay Realty, which owns the building and sidewalk, and Guiding Eye Dogs for the Blind but she dropped Gardner from the case. Lawyers for the landlord and dog group did not return phone calls. "

Meanwhile, Clark has a new dog Charles — trained by a different group that specializes in guide dogs.

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