

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

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Submitted - September 5, 2006

THOMAS A. ADAMS, J.P.
GLORIA GOLDSTEIN
WILLIAM F. MASTRO
ROBERT A. LIFSON, JJ.

2006-01621

DECISION & ORDER

Patrick Stevenson, Jr., etc., et al., plaintiffs-respondents,
v Justin Stockslager, et al., defendants-appellants third-party
plaintiffs; Juella Guadalupe, third-party defendant.

(Index No. 5947/05)

Gorgan & Souto, P.C., Goshen, N.Y. (Edward P. Souto of counsel), for defendants-appellants third-party plaintiffs.

Robinson & Yablon, P.C., New York, N.Y. (Thomas Torto and Jason Levine of counsel), for plaintiffs-respondents.

Craig P. Curcio, Middletown, N.Y., for third-party defendant.

In an action to recover damages for personal injuries, etc., the defendants/third-party plaintiffs appeal from an order of the Supreme Court, Orange County (Horowitz, J.), dated January 4, 2006, which granted the plaintiffs' motion for summary judgment on the issue of liability.

ORDERED that the order is affirmed, with costs.

“Pursuant to the unambiguous language of Vehicle and Traffic Law § 1229-c(8), the [appellants are] expressly precluded from seeking to defend against liability based upon the claim that the children were not [wearing safety belts or] strapped in . . . child-car seats at the time of the accident” (*Boyd v Trent*, 297 AD2d 301, 302; *see* General Obligations Law § 3-111; *Spier v Barker*,

October 10, 2006

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35 NY2d 444; *Martinez v Novin*, 303 AD2d 653). Accordingly, there being no issue of fact raised in opposition to the plaintiffs' prima facie establishment of their right to judgment as a matter of law, the Supreme Court properly granted the plaintiffs' motion for summary judgment on the issue of liability (*see* CPLR 3212).

ADAMS, J.P., GOLDSTEIN, MASTRO and LIFSON, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer
Clerk of the Court