

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

D12661
Y/cb

_____AD3d_____

Argued - October 6, 2006

FRED T. SANTUCCI, J.P.
GABRIEL M. KRAUSMAN
WILLIAM F. MASTRO
STEVEN W. FISHER, JJ.

2006-05521

DECISION & ORDER

Hou-Ching Chou, respondent, v Jason Wong,
appellant.

(Index No. 6730/04)

Morris Duffy Alonso & Faley, LLP, New York, N.Y. (Yolanda L. Ayala and Anna J. Errolina of counsel), for appellant.

O'Dwyer & Bernstein, LLP, New York, N.Y. (M. Gladys T. Oranga of counsel), for respondent.

In an action to recover damages for personal injuries, the defendant appeals from an order of the Supreme Court, Queens County (Grays, J.), dated May 5, 2006, which denied his motion for summary judgment dismissing the complaint.

ORDERED that the order is reversed, on the law, with costs, and the defendant's motion for summary judgment dismissing the complaint is granted.

The defendant, Jason Wong, established his prima facie entitlement to judgment as a matter of law by demonstrating that, after the plaintiff, Hou-Ching Chou, brought his vehicle to a stop at the stop sign controlling the plaintiff's direction of traffic, the plaintiff proceeded into the intersection directly into the path of the defendant's oncoming vehicle, which he saw approaching (*see* Vehicle and Traffic Law § 1142[a]; *Friedberg v Citywide Auto Leasing*, 22 AD3d 522; *Ishak v Guzman*, 12 AD3d 409; *Morgan v Hachmann*, 9 AD3d 400). In opposition, the plaintiff failed to raise a triable issue of fact. The plaintiff's contention that the defendant was speeding is speculative

and unsupported by any competent evidence (*see McNamara v Fishkowitz*, 18 AD3d 721; *Mora v Garcia*, 3 AD3d 478, 479; *Meretskig v Logozzo*, 2 AD3d 599; *Breslin v Rudden*, 291 AD2d 471).

Accordingly, the defendant's motion for summary judgment dismissing the complaint should have been granted.

SANTUCCI, J.P., KRAUSMAN, MASTRO and FISHER, 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