

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

D13024
Y/hu

_____AD3d_____

Submitted - October 16, 2006

HOWARD MILLER, J.P.
GLORIA GOLDSTEIN
PETER B. SKELOS
STEVEN W. FISHER, JJ.

2005-04301

DECISION & ORDER

Gaspar LaRosa, plaintiff-respondent, v City of New York,
defendant-respondent, Ernest Torres, et al., appellants.

(Index No. 7101/01)

Gladstein & Isaac, New York, N.Y. (Robert L. Boydston of counsel), for appellants.

Fine & Bassik, Great Neck, N.Y. (Patricia N. Reich of counsel), for plaintiff-
respondent.

In an action to recover damages for personal injuries, the defendants Ernest Torres and Ernest Torres, d/b/a “Lauren Matthew Hair Design,” appeal, as limited by their brief, from so much of an order of the Supreme Court, Kings County (Partnow, J.), dated April 1, 2005, as denied their motion for summary judgment dismissing the complaint and all cross claims insofar as asserted against them.

ORDERED that the order is affirmed insofar as appealed from, with one bill of costs.

The plaintiff slipped and fell on ice on a stretch of sidewalk which allegedly was located in front of premises owned by the appellants. After issue was joined, the appellants moved for summary judgment on the ground that the plaintiff failed to establish that the accident occurred in front of their property.

December 12, 2006

Page 1.

LaROSA v CITY OF NEW YORK

The appellants failed to eliminate all issues of fact regarding whether the plaintiff slipped and fell in front of their property. Accordingly, they failed to establish a prima facie case that they were not liable for the plaintiff's accident and their motion for summary judgment was properly denied (*see Winegrad v New York Univ. Med. Ctr.*, 64 NY2d 851).

MILLER, J.P., GOLDSTEIN, SKELOS 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