

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

D13113
G/mv

_____AD3d_____

Submitted - October 13, 2006

ROBERT W. SCHMIDT, J.P.
FRED T. SANTUCCI
PETER B. SKELOS
ROBERT J. LUNN, JJ.

2005-02088

DECISION & ORDER

Ethel Bennett, et al., appellants, v
Kenneth Robinson, et al., respondents.

(Index No. 28592/01)

Robert J. Del Col, Huntington, N.Y., for appellants.

Congdon, Flaherty, O'Callaghan, Reid, Donlon, Travis & Fishlinger, Uniondale, N.Y.
(Kathleen D. Foley and Gregory A. Cascino of counsel), for respondents.

In an action to recover damages for personal injuries, etc., the plaintiffs appeal from an order of the Supreme Court, Suffolk County (Baisley, Jr., J.), dated January 13, 2005, which granted the defendants' motion for summary judgment dismissing the complaint.

ORDERED that the order is affirmed, with costs.

The defendants established their prima facie entitlement to summary judgment as a matter of law (*see Lezama v 34-15 Parsons Blvd, LLC*, 16 AD3d 560). In response, the plaintiffs failed to raise a triable issue of fact (*see Curran v Esposito*, 308 AD2d 428, 429). Ethel Bennett's affidavit submitted in opposition to the motion for summary judgment contradicted her deposition testimony and was apparently a feigned attempt to raise an issue of fact (*see Gadonniex v Lombardi*, 277 AD2d 281, 281-282).

SCHMIDT, J.P., SANTUCCI, SKELOS and LUNN, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court

December 19, 2006

BENNETT v ROBINSON