

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

D13540  
Y/mv

\_\_\_\_\_AD3d\_\_\_\_\_

Argued - November 17, 2006

ROBERT W. SCHMIDT, J.P.  
REINALDO E. RIVERA  
FRED T. SANTUCCI  
GABRIEL M. KRAUSMAN, JJ.

2005-05947

DECISION & ORDER

Arsho Martin, et al., appellants, v Ford  
Motor Company, respondent, et al., defendant.

(Index No. 18319/01)

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Allen L. Rothenberg, New York, N.Y. (Marc J. Rothenberg and Murray & Murray Co., LPA, Sandusky, Ohio [Thomas J. Murray and Mary S. Birkett] of counsel), for appellants.

Aaronson Rappaport Feinstein & Deutsch, LLP, New York, N.Y. (Elliot J. Zucker of counsel), for respondent.

In an action to recover damages for personal injuries, etc., the plaintiffs appeal, as limited by their brief, from so much of a judgment of the Supreme Court, Queens County (Weiss, J.), entered May 6, 2005, as, upon a jury verdict, is in favor of the defendant Ford Motor Company and against them, dismissing the complaint insofar as it is asserted against that defendant.

ORDERED that the judgment is affirmed insofar as appealed from, with costs.

The 1989 report prepared by the National Highway Traffic and Safety Administration was admissible under the common-law public document exception to the hearsay rule (*see Consolidated Midland Corp. v Columbia Pharmaceutical Corp.*, 42 AD2d 601). Accordingly, the report is not "prima facie evidence of the facts" contained therein (CPLR 4520), but merely some evidence of the facts which the trier of fact is free to disbelieve even though the adverse party offers no evidence on the point (*see Consolidated Midland Corp. v Columbia Pharmaceutical Corp.*, *supra*; *Matter of Frenke v Frenke*, 267 AD2d 238).

January 30, 2007

Page 1.

MARTIN v FORD MOTOR COMPANY

Contrary to the plaintiffs' contention, a report prepared by the United States Department of Transportation, Office of the Inspector General, as well as a compendium, were properly excluded from the evidence by the Supreme Court.

The plaintiffs' remaining contentions are without merit.

SCHMIDT, J.P., RIVERA, SANTUCCI and KRAUSMAN, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive style with a large, sweeping initial "J".

James Edward Pelzer  
Clerk of the Court