

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

D13650  
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Argued - December 15, 2006

ROBERT W. SCHMIDT, J.P.  
STEPHEN G. CRANE  
PETER B. SKELOS  
STEVEN W. FISHER, JJ.

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2006-00659

DECISION & ORDER

Roma Ortiz, respondent, v Globe Ground North  
America, et al., appellants.

(Index No. 3215/04)

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Wilson, Elser, Moskowitz, Edelman & Dicker, LLP, New York, N.Y. (Bianca  
Michelis, Richard E. Lerner, and Patrick Geraghty of counsel), for appellants.

Rose and Koerner, Brooklyn, N.Y. (Ronald Koerner of counsel), for respondent.

In an action to recover damages for personal injuries, the defendants appeal from an order of the Supreme Court, Kings County (Schneier, J.), dated August 19, 2005, which denied their motion for summary judgment dismissing the complaint.

ORDERED that the order is affirmed, with costs.

The plaintiff allegedly was injured when the bus on which she was a passenger came to a sudden stop, causing her to fall to the ground. The defendants moved for summary judgment on the ground that the defendant bus driver, in stopping suddenly, was responding to an emergency situation for which the defendants cannot be held liable (*see e.g., Caristo v Sanzone*, 96 NY2d 172). The Supreme Court denied the motion. We affirm.

On this record, the defendants failed to establish their prima facie entitlement to judgment as a matter of law (*see Ayotte v Gervasio*, 81 NY2d 1062), as the evidence they tendered leaves unresolved material issues of fact regarding the applicability of the emergency doctrine (*see*

*Tossas v Ponce*, 24 AD3d 224; *McGraw v Glowacki*, 303 AD2d 968, 969; *Morgan v Ski Roundtop* 290 AD2d 618, 619-620; *cf. Roviello v Schoolman Transp. Sys.*, 10 AD3d 356).

SCHMIDT, J.P., CRANE, SKELOS and FISHER, JJ., concur.

ENTER:

A handwritten signature in cursive script that reads "James Edward Pelzer".

James Edward Pelzer  
Clerk of the Court