

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

D13883
W/cb

_____AD3d_____

Argued - January 12, 2007

ROBERT W. SCHMIDT, J.P.
STEPHEN G. CRANE
STEVEN W. FISHER
THOMAS A. DICKERSON, JJ.

2005-09912

DECISION & ORDER

Yury Gershman, respondent, v Attar Habib, et al.,
defendants, Richard Hockfield, appellant.

(Index No. 3027/04)

Lynch & Lynch, LLP, Brooklyn, N.Y. (Victor Timoshenko of counsel), for appellant.

Neil L. Fuhrer & Assoc., LLP, New York, N.Y., for respondent.

In an action to recover damages for personal injuries, the defendant Richard Hockfield appeals from an order of the Supreme Court, Kings County (Harkavy, J.), dated September 14, 2005, which denied his motion for summary judgment dismissing the complaint insofar as asserted against him.

ORDERED that the order is reversed, on the law, with costs, and the motion of the defendant Richard Hockfield for summary judgment dismissing the complaint insofar as asserted against him is granted.

The defendant Richard Hockfield established, as a matter of law, that he did not negligently operate his vehicle (*see Hou-Ching Chou v Wong*, 34 AD3d 642; *Pena v Santana*, 5 AD3d 649). In opposition, the plaintiff failed to raise a triable issue of fact (*see Zuckerman v City of New York*, 49 NY2d 557, 563; *Berkshire Nursing Ctr. Inc. v Novello*, 13 AD3d 327, 328-329).

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Accordingly, the Supreme Court should have granted Hockfield's motion for summary judgment dismissing the complaint insofar as asserted against him.

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

ENTER:

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

James Edward Pelzer
Clerk of the Court