

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

D14030
C/nl

_____AD3d_____

Argued - January 19, 2007

ROBERT W. SCHMIDT, J.P.
REINALDO E. RIVERA
JOSEPH COVELLO
RUTH C. BALKIN, JJ.

2005-03716

DECISION & ORDER

Rosario Chavez, etc., appellant,
v City of New York, respondent.
(Action No. 1)

(Index No. 3099/95)

Rosario Chavez, etc., appellant, v New York City
Industrial Development Agency, defendant third-
party plaintiff-respondent, et al., third-party defendant;
Queens Hospital Center, third-party defendant-
respondent; City of New York, second third-party
plaintiff-respondent; Madeline Chocolates Novelties,
Inc., second third-party defendant-respondent.
(Action No. 2)

(Index No. 10794/95)

Pagan Law Firm, P.C., New York, N.Y. (Tania M. Pagan and Priyanka G. Menon of
counsel), for appellant.

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Stephen J. McGrath
and Cheryl Payer of counsel), for City of New York, respondent in Action No. 1 and
second third-party plaintiff-respondent in Action No. 2, and Queens Hospital Center,
third-party defendant-respondent in Action No. 2.

February 27, 2007

Page 1.

CHAVEZ v CITY OF NEW YORK
CHAVEZ v NEW YORK CITY INDUSTRIAL DEVELOPMENT AGENCY

Morenus, Conway, Goren & Brandman, Melville, N.Y. (Brian S. Brandman of counsel), for defendant third-party plaintiff-respondent in Action No. 2.

Smith Mazure Director Wilkins Young & Yagerman, P.C., New York, N.Y. (Louis H. Klein of counsel), for second third-party defendant-respondent in Action No. 2.

In two related actions, inter alia, to recover damages for personal injuries and wrongful death, etc., the plaintiff in both actions appeals, as limited by her brief, from so much of an order of the Supreme Court, Queens County (LeVine, J.), dated February 28, 2005, as denied that branch of her motion which was to restore the actions to the trial calendar.

ORDERED that order is reversed insofar as appealed from, on the facts, without costs or disbursements, and that branch of the motion which was to restore the actions to the trial calendar is granted.

Under the particular circumstances of this case, the Supreme Court should have granted that branch of the motion which was to restore the actions to the trial calendar.

SCHMIDT, J.P., RIVERA, COVELLO and BALKIN, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court