

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

D14072  
Y/cb

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

Argued - January 30, 2007

HOWARD MILLER, J.P.  
ROBERT A. SPOLZINO  
DAVID S. RITTER  
ROBERT A. LIFSON, JJ.

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2005-11608

DECISION & ORDER

Rosalyn Williams, etc., et al., respondents, v New York  
City Transit Authority, et al., appellants.

(Index No. 2708/04)

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Wallace D. Gossett, New York, N.Y. (Steven Efron and Renee Cyr of counsel), for  
appellants.

Kenneth S. Feraru, Mineola, N.Y., for respondents.

In an action to recover damages for personal injuries, etc., the defendants appeal from  
an order of the Supreme Court, Kings County (Partnow, J.), dated October 28, 2005, which granted  
the plaintiffs' motion for summary judgment on the issue of liability and the separate motion of the  
plaintiff Rosalyn Williams for summary judgment dismissing the defendants' counterclaim against her.

ORDERED that the order is affirmed, with costs.

In support of their motion for summary judgment on the issue of liability, the plaintiffs  
established that a motor vehicle operated by the plaintiff Rosalyn Williams in the rightmost lane of  
the Gowanus Expressway, in Brooklyn, was struck by a bus owned by the defendant New York City  
Transit Authority and operated by the defendant William Meier when the bus moved to the right, in  
violation of Vehicle and Traffic Law § 1128(a), in order to avoid construction barriers in the

February 27, 2007

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roadway. This evidence established the defendants' prima facie liability (*see Neryaev v Solon*, 6 AD3d 510). In opposition, the defendants failed to raise a triable issue of fact (*see Neryaev v Solon*, *supra*). Accordingly, the Supreme Court properly granted both motions.

MILLER, J.P., SPOLZINO, RITTER and LIFSON, JJ., concur.

ENTER:

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

James Edward Pelzer  
Clerk of the Court