

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

D14141
Y/cb

_____AD3d_____

Argued - January 30, 2007

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

2005-11152

DECISION & ORDER

Cheryl Lee, appellant, v J & R Electronic, Inc., et al,
respondents.

(Index No. 11867/04)

Napoli Bern Ripka, LLP, New York, N.Y. (Denise A. Rubin of counsel), for
appellant.

Callan, Koster, Brady & Brennan, LLP, New York, N.Y. (Michael P. Kandler of
counsel), for respondents.

In an action to recover damages for personal injuries, the plaintiff appeals, as limited
by her brief, from so much of an order of the Supreme Court, Queens County (Kitzes, J.), dated
November 1, 2005, as granted that branch of the motion of the defendants which was for summary
judgment dismissing the complaint.

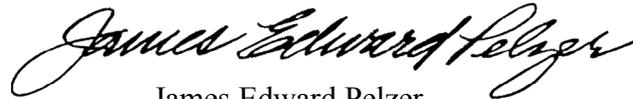
ORDERED that the order is affirmed insofar as appealed from, with costs.

The plaintiff allegedly fell while descending an interior staircase in the defendants'
premises. The defendants establish their entitlement to judgment as a matter of law by submitting the
deposition testimony of the plaintiff wherein she stated that she did not know what had caused her
to fall (*see Fox v Watermill Enters.*, 19 AD3d 364; *Rodriguez v Cafaro*, 17 AD3d 658; *Hartman v*
Mountain Val. Brew Pub, 301 AD2d 570; *Bitterman v Grotyohann*, 295 AD2d 383). In opposition,

the plaintiff failed to submit evidence sufficient to raise a triable issue of fact (*see Alvarez v Prospect Hosp.*, 68 NY2d 320).

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