

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

D14194
C/gts

_____AD3d_____

Argued - February 8, 2007

WILLIAM F. MASTRO, J.P.
REINALDO E. RIVERA
MARK C. DILLON
EDWARD D. CARNI, JJ.

2006-04909

DECISION & ORDER

Jose Vasquez, et al., respondents, v AAAA Secure Driving School, Inc., d/b/a AAA Secure Driving School, et al., defendants, David Diamond, et al., appellants.

(Index No. 5419/03)

Peter T. Connor, Rockville Centre, N.Y., for appellants.

The Edelsteins, Faegenburg & Brown, Brooklyn, N.Y. (Paul J. Edelstein of counsel),
for respondents.

In an action, inter alia, to recover damages for personal injuries, the defendants David Diamond, AAAA Driving School of Staten Island, Inc., d/b/a AAA Driving School of Staten Island, AA&A Secure Driving School, Inc., and Secure Driving School, Inc., appeal from an order of the Supreme Court, Kings County (F. Rivera, J.), dated March 27, 2006, which denied those branches of their motion which were pursuant to CPLR 3022 and CPLR 3212 to dismiss the complaint insofar as asserted against them.

ORDERED that the order is affirmed, with costs.

Contrary to the appellants' contention, that branch of their motion which was to dismiss the complaint pursuant to CPLR 3212 was properly denied because they failed to establish their prima facie entitlement to judgment as a matter of law (*see Alvarez v Prospect Hosp.*, 68 NY2d 320, 324).

March 6, 2007

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d/b/a AAA SECURE DRIVING SCHOOL

The appellants' remaining contentions are without merit.

MASTRO, J.P., RIVERA, DILLON and CARNI, JJ., concur.

ENTER:

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

James Edward Pelzer
Clerk of the Court