

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

D14262
G/cb

_____AD3d_____

Argued - February 2, 2007

STEPHEN G. CRANE, J.P.
GABRIEL M. KRAUSMAN
STEVEN W. FISHER
THOMAS A. DICKERSON, JJ.

2005-09727

DECISION & ORDER

Grigory Frenk, etc., et al., respondents, v Atiba
Frederick, et al., appellants.

(Index No. 2609/03)

Rivkin Radler LLP, Uniondale, N.Y. (Evan H. Krinick, Cheryl F. Korman, Harris J. Zakarin, and Melissa Murphy of counsel), for appellants.

William Pager, Brooklyn, N.Y., for respondents.

In an action to recover damages for personal injuries, etc., the defendants appeal from a judgment of the Supreme Court, Kings County (F. Rivera, J.), dated September 26, 2005, which, upon a jury verdict on the issue of liability, is in favor of the plaintiffs and against them.

ORDERED that the judgment is affirmed, with costs.

Parties have a continuing obligation to provide information as it becomes available to them (*see* CPLR 3101[h]), and where the defendants attempt to introduce at trial the testimony of witnesses whose addresses were not disclosed to the plaintiffs, the plaintiffs may seek preclusion of that evidence at that time (*see Brown v United Christian Evangelistic Assn.*, 270 AD2d 378, 379). Under the particular facts of this case, the Supreme Court did not improvidently exercise its discretion in granting preclusion.

March 13, 2007

FRENK v FREDERICK

Page 1.

The defendants' remaining contention is without merit.

CRANE, J.P., KRAUSMAN, 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.

James Edward Pelzer
Clerk of the Court