

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

D14365  
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Submitted - February 13, 2007

HOWARD MILLER, J.P.  
ROBERT A. SPOLZINO  
GLORIA GOLDSTEIN  
WILLIAM E. McCARTHY, JJ.

2005-02278

DECISION & ORDER

Cyprian C. Davis, appellant, v Peek A Boo Cab  
Corp., et al., respondents.

(Index No. 1568/01)

Barry Siskin, New York, N.Y., for appellant.

Baker, McEvoy, Morrissey & Moskovits, P.C., New York, N.Y. (Michael I. Josephs  
of counsel), for respondents.

In an action to recover damages for personal injuries, the plaintiff appeals, as limited by his brief, from so much of an order of the Supreme Court, Kings County (Bunyan, J.), dated January 19, 2005, as granted that branch of the defendants' motion pursuant to CPLR 4404(a) which was for a new trial on the issue of damages unless he stipulated to reduce the verdict as to damages for past pain and suffering from the sum of \$180,000 to the sum of \$60,000 and as to damages for future pain and suffering from the sum of \$343,500 to the sum of \$69,000.

ORDERED that the order is affirmed insofar as appealed from, without costs or disbursements.

Contrary to the plaintiff's contentions, the Supreme Court had the authority to entertain the defendants' motion to set aside the verdict (*see* CPLR 4405). The defendants made an oral motion to set aside the verdict at the conclusion of the trial (*see e.g. Brown v Long Is. R.R.*, 304 AD2d 601) and submitted their written support of the motion within the extended time limitation set by the trial court without objection (*see Manning v Brookhaven Meml. Hosp. Med. Ctr.*, 11 AD3d 518, 520).

March 20, 2007

Page 1.

DAVIS v PEEK A BOO CAB CORP.

The plaintiff's remaining contentions are without merit.

MILLER, J.P., SPOLZINO, GOLDSTEIN and McCARTHY, 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