

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

D14594
X/gts

_____AD3d_____

Argued - March 2, 2007

FRED T. SANTUCCI, J.P.
GABRIEL M. KRAUSMAN
ROBERT A. LIFSON
MARK C. DILLON, JJ.

2006-00623
2006-10638

DECISION & ORDER

Edna Elieka Sealey, plaintiff, Cecelia Preston,
respondent, v Jamaica Buses, Inc., et al.,
defendants, Laura Lee, appellant.

(Index No. 27949/98)

Cheven, Keely & Hatzis, New York, N.Y. (William B. Stock of counsel), for
appellant.

Bergman, Bergman, Goldberg & Lamonosoff, LLP, Forest Hills, N.Y. (Seth Altman,
Allen Goldberg, and Michael E. Bergman of counsel), for respondent.

In an action to recover damages for personal injuries, the defendant Laura Lee appeals, as limited by her brief, (1) from so much of an order of the Supreme Court, Queens County (LeVine, J.), dated November 29, 2005, as granted that branch of the motion of the plaintiff Cecelia Preston which was to direct Lee to satisfy a judgment of the same court entered September 22, 2004, in favor of Preston and against her in the total sum of \$27,103.36, and denied her cross motion to vacate the judgment entered September 22, 2004; and (2) from so much an order of the Supreme Court, Queens County (Schulman, J.), entered October 19, 2006, as denied that branch of her motion which was for leave to renew and, upon reargument, adhered to the original determination in the order dated November 29, 2005.

ORDERED that the appeal from the order dated November 29, 2005, is dismissed, as that order was superseded by the order entered October 19, 2006, made upon reargument; and it is further,

April 3, 2007

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ORDERED that order entered October 19, 2006, is affirmed insofar as appealed from; and it is further,

ORDERED that one bill of costs is awarded to the respondent.

The plaintiff Cecelia Preston (hereinafter the plaintiff) submitted proof that she tendered a duly executed release and stipulation of discontinuance to the appellant following the settlement entered into by the parties on the record in open court. Since the appellant thereafter failed to “promptly” pay the settlement amount in accordance with CPLR 5003-a, the plaintiff was entitled to enter judgment for the amount set forth in the release “together with costs and lawful disbursements, and interest” (CPLR 5003-a[e]). Accordingly, the Supreme Court properly granted that branch of the plaintiff’s motion which was to direct the appellant to satisfy the judgment (*see generally State Farm Mut. Auto Ins. Co. v LaForte*, 125 AD2d 563; *cf. Weinberg v Transamerica Ins. Co.*, 62 NY2d 379).

The court properly denied that branch of the appellant’s motion which was for leave to renew (*see CPLR 2221; Spa Realty Assoc. v Springs Assoc.*, 213 AD2d 781).

The appellant’s remaining contentions are without merit.

SANTUCCI, J.P., KRAUSMAN, LIFSON and DILLON, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court