

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

D14788  
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Argued - March 13, 2007

HOWARD MILLER, J.P.  
FRED T. SANTUCCI  
ANITA R. FLORIO  
ROBERT A. LIFSON, JJ.

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2005-10832

DECISION & ORDER

Eddie Cedenó, et al., appellants, v John J. McNulty,  
respondent.

(Index No. 12434/97)

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Charles Berkman (Thomas Torto, New York, N.Y. [Jason Levine], of counsel), for appellants.

McMahon, Martine & Gallagher, New York, N.Y. (Patrick W. Brophy of counsel), for respondent.

In an action, inter alia, to recover damages for personal injuries, the plaintiffs appeal from an order of the Supreme Court, Kings County (Bayne, J.), dated October 7, 2005, which denied their motion pursuant to CPLR 4404(a) to set aside a jury verdict in favor of the defendant on the issue of liability as against the weight of the evidence.

ORDERED that the order is affirmed, with costs.

A jury verdict in favor of a defendant should not be set aside as against the weight of the evidence unless the evidence preponderates so heavily in the plaintiff's favor that the verdict could not have been reached on any fair interpretation of the evidence (*see Lolik v Big V Supermarkets*, 86 NY2d 744; *Nicastro v Park*, 113 AD2d 129). Great deference is accorded to the credibility determinations of the jury, which had the opportunity to see and hear the witnesses (*see Yau v New York City Tr. Auth.*, 10 AD3d 654; *Margiotta v Rock & Roll Livery*, 302 AD2d 500). Applying these principles to this case, the verdict was not against the weight of the evidence.

April 17, 2007

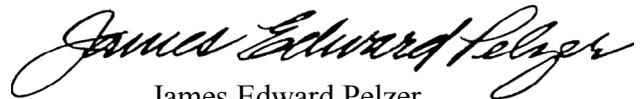
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The plaintiffs' remaining contentions are improperly raised on this appeal.

MILLER, J.P., SANTUCCI, FLORIO and LIFSON, 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