

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

D16253
Y/cb

_____AD3d_____

Argued - June 18, 2007

ROBERT A. SPOLZINO, J.P.
PETER B. SKELOS
ROBERT A. LIFSON
RUTH C. BALKIN, JJ.

2006-07807

DECISION & ORDER

Richard Mitchell, et al., appellants, v Kenneth
Brown, et al., respondents.

(Index No. 80/04)

Wittenstein & Associates P.C., Brooklyn, N.Y. (Benedene Cannata and Harlan A. Wittenstein of counsel), for appellants.

Michael E. Pressman, New York, N.Y. (Robert H. Fischer of counsel), for respondents.

In an action to recover damages for personal injuries, etc., the plaintiffs appeal, as limited by their brief, from so much of an order of the Supreme Court, Nassau County (Winslow, J.), dated June 10, 2006, as granted that branch of the defendants' motion which was to amend and correct a judgment of the same court dated January 24, 2006, to provide for the accrual of prejudgment interest from the date of the verdict on the issue of damages rather than from April 13, 2005, the date of an order of the same court granting the plaintiffs' motion for summary judgment on the issue of liability.

ORDERED that the appeal is dismissed as academic, without costs or disbursements.

In light of our determination of the separate appeal by the defendants from the judgment dated January 24, 2006, (*see Mitchell v Brown*, _____AD3d_____ [Appellate

Division Docket No. 2006-02170, decided herewith]), this appeal has been rendered academic and therefore must be dismissed.

SPOLZINO, J.P., SKELOS, LIFSON and BALKIN, 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