

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

D16372
G/kmg

_____AD3d_____

Argued - June 7, 2007

REINALDO E. RIVERA, J.P.
GABRIEL M. KRAUSMAN
PETER B. SKELOS
RUTH C. BALKIN, JJ.

2006-09346

DECISION & ORDER

Shara Kerin, respondent, v City University of New
York, appellant.

(Claim No. 111039)

Andrew M. Cuomo, Attorney General, New York, N.Y. (Peter H. Schiff and Michael
S. Buskus of counsel), for appellant.

In a claim to recover damages for personal injuries, the defendant appeals from an order of the Court of Claims (Scuccimarra, J.), dated August 18, 2006, which granted the claimant's motion, inter alia, for leave to amend the claim to add the total sum claimed and denied the defendant's cross motion to dismiss the claim for failure to state the total sum claimed pursuant to Court of Claims Act § 11(b).

ORDERED that the order is affirmed, without costs or disbursements.

The claimant, inter alia, sought leave to amend her claim to add an ad damnum clause stating the total sum claimed. The defendant cross-moved to dismiss the claim for failure to comply with the pleading requirements of Court of Claims Act § 11(b). The Court of Claims granted the claimant's motion and denied the defendant's cross motion. We affirm.

In light of the recent amendment of Court of Claims Act § 11(b) (L 2007, ch 606, § 1), retroactively abrogating *Kolnacki v State of New York* (8 NY3d 277), the instant claim was not jurisdictionally defective notwithstanding the absence of an ad damnum clause.

September 25, 2007

Page 1.

KERIN v CITY UNIVERSITY OF NEW YORK

The defendant's remaining contentions need not be reached in light of our determination.

RIVERA, J.P., KRAUSMAN, SKELOS and BALKIN, JJ., concur.

ENTER:

A handwritten signature in cursive script, reading "James Edward Pelzer".

James Edward Pelzer
Clerk of the Court