

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

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_____AD3d_____

Argued - October 1, 2007

HOWARD MILLER, J.P.
GLORIA GOLDSTEIN
PETER B. SKELOS
RUTH C. BALKIN, JJ.

2006-10673

DECISION & ORDER

Keybank, USA, NA, appellant, v Government
Employees Insurance Company, et al., respondents.

(Index No. 32172/04)

Smith Mazure Director Wilkins Young & Yagerman, P.C., New York, N.Y. (Joel M. Simon of counsel), for appellant.

Law Firm of Connors & Connors, P.C., Staten Island, N.Y. (David S. Heller and Michael J. Caulfield of counsel), for respondents.

In an action, inter alia, for contractual and common-law indemnification, the plaintiff appeals from an order of the Supreme Court, Kings County (Ambrosio, J.), dated May 24, 2006, which denied its motion for summary judgment, and granted that branch of the defendants' cross motion which was for summary judgment dismissing the complaint.

ORDERED that the order is affirmed, with costs.

In support of that branch of their cross motion which was for summary judgment dismissing the complaint, the defendants made a prima facie showing of entitlement to judgment as a matter of law (*see Alvarez v Prospect Hosp.*, 68 NY2d 320; *see also Chapel v Mitchell*, 84 NY2d 345; *National City Bank v New York Cent. Mut. Fire Ins. Co.*, 6 AD3d 1116; *Goldberg v American Home Assur. Co.*, 80 AD2d 409). In opposition, the plaintiff failed to raise a triable issue of fact. Accordingly, the Supreme Court correctly denied the plaintiff's motion for summary judgment and correctly granted that branch of the defendants' cross motion which was for summary judgment dismissing the complaint.

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The plaintiff's remaining contentions are without merit.

MILLER, J.P., GOLDSTEIN, SKELOS 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 initial "J".

James Edward Pelzer
Clerk of the Court