

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

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Submitted - October 31, 2007

ROBERT W. SCHMIDT, J.P.
ROBERT A. SPOLZINO
PETER B. SKELOS
ROBERT A. LIFSON
WILLIAM E. McCARTHY, JJ.

2007-04091

DECISION & ORDER

Joanna M. Pragay, respondent, v Fernan Lavado,
et al., appellants.

(Index No. 12163/06)

Boeggeman, George & Corde, P.C., White Plains, N.Y. (Cynthia Dolan of counsel),
for appellants.

Pirrotti Law Firm, LLC, Scarsdale, N.Y., for respondent.

In an action to recover damages for personal injuries, the defendants appeal from an order of the Supreme Court, Westchester County (Lefkowitz, J.), dated March 19, 2007, which granted the plaintiff's motion for summary judgment on the issue of liability.

ORDERED that the order is affirmed, with costs.

Pursuant to Vehicle and Traffic Law § 1121(a), a "driver of a vehicle shall not back the same unless such movement can be made with safety and without interfering with other traffic." Here, the plaintiff established her prima facie entitlement to judgment as a matter of law by demonstrating that she was standing in a crosswalk waiting to cross the street when the defendant, who had been sitting in his parked vehicle, suddenly backed his car and struck her. In opposition to the plaintiff's motion, the defendant failed to raise a triable issue of fact. Accordingly, the Supreme Court properly granted the plaintiff's motion for summary judgment on the issue of liability (*see Ortiz*

November 27, 2007

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v Calavera, 26 AD3d 319; *Garcia v Verizon N.Y., Inc.*, 10 AD3d 339; *Pressner v Serrano*, 260 AD2d 458).

SCHMIDT, J.P., SPOLZINO, SKELOS, LIFSON and McCARTHY, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive style with a large, sweeping initial "J".

James Edward Pelzer
Clerk of the Court