

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

D18116
Y/kmg

____AD3d____

Submitted - January 8, 2008

ROBERT A. LIFSON, J.P.
DAVID S. RITTER
DANIEL D. ANGIOLILLO
EDWARD D. CARNI, JJ.

2006-08406

DECISION & ORDER

Alan Geller, appellant, v Robert Spitalnick,
respondent (and a third-party action).

(Index No. 1089/04)

Ira Bierman, Syosset, N.Y., for appellant.

Andrew Lavoott Bluestone, New York, N.Y., for respondent.

In an action to recover damages for legal malpractice, the plaintiff appeals from a judgment of the Supreme Court, Nassau County (LaMaca, J.), entered August 16, 2006, which, upon an order entered August 4, 2006, granting the defendant's cross motion for summary judgment dismissing the complaint, is in favor of the defendant and against him, dismissing the complaint.

ORDERED that the judgment is affirmed, with costs.

The defendant demonstrated his prima facie entitlement to summary judgment (*see Becker v Julien, Blitz & Schlesinger*, 66 AD2d 674; *Parker Chapin Flattan & Klimpl v Daelen Corp.* 59 AD2d 375). In opposition, the plaintiff failed to raise a triable issue of fact (*see Alvarez v Prospect Hosp.*, 68 NY2d 320, 324). Therefore, the Supreme Court properly granted the defendant's cross motion for summary judgment dismissing the complaint.

LIFSON, J.P., RITTER, ANGIOLILLO and CARNI, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

February 26, 2008

GELLER v SPITALNICK