

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

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_____AD3d_____

Argued - January 18, 2008

WILLIAM F. MASTRO, J.P.
ANITA R. FLORIO
HOWARD MILLER
THOMAS A. DICKERSON, JJ.

2006-11951

DECISION & ORDER

Cheryl Jackson, plaintiff-respondent, v Jamaica
First Parking, LLC, appellant, City of New York,
defendant-respondent.

(Index No. 10980/04)

Friedman, Harfenist, Langer & Kraut, LLP, Lake Success, N.Y. (Steven J. Harfenist, Andrew C. Lang, and Heather L. Smar of counsel), for appellant.

Jacoby & Meyers, LLP, Newburgh, N.Y. (Finkelstein & Partners [Kara Campbell] of counsel), for plaintiff-respondent.

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Kristin M. Helmers and Janet L. Zaleon of counsel), for defendant-respondent.

In an action to recover damages for personal injuries, the defendant Jamaica First Parking, LLC, appeals from an order of the Supreme Court, Queens County (Flug, J.), dated October 6, 2006, which denied, as untimely, its motion for summary judgment dismissing the complaint and all cross claims insofar as asserted against it.

ORDERED that the order is affirmed, with one bill of costs.

The Supreme Court correctly denied the appellant's motion as untimely, as the appellant failed to demonstrate "good cause" for making its motion after the 120-day deadline imposed by CPLR 3212(a) had passed (*see Brill v City of New York*, 2 NY3d 648; *Coty v County of Clinton*, 42 AD3d 612). The record contains no proof that outstanding discovery prevented the

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appellant from making a timely motion for summary judgment (*see Espejo v Hiro Real Estate Co.*, 19 AD3d 360).

In light of our determination, we need not reach the appellant's remaining contentions.

MASTRO, J.P., FLORIO, MILLER and DICKERSON, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer
Clerk of the Court