

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

D18426
Y/kmg

_____AD3d_____

Submitted - February 7, 2008

STEVEN W. FISHER, J.P.
HOWARD MILLER
WILLIAM E. McCARTHY
CHERYL E. CHAMBERS, JJ.

2006-11223

DECISION & ORDER

Madeline Scaltro, respondent, v New
York City Transit Authority, appellant,
et al., defendant.

(Index No. 36602/04)

Wallace D. Gossett, Brooklyn, N.Y. (Lawrence Heisler of counsel), for appellant.

H. Bruce Fischer, P.C., New York, N.Y., for respondent.

In an action to recover damages for personal injuries, the defendant New York City Transit Authority appeals from an order of the Supreme Court, Kings County (Solomon, J.), dated September 20, 2006, which denied that branch of its motion which was for summary judgment dismissing the complaint insofar as asserted against it, with leave to renew upon the completion of discovery.

ORDERED that the order is reversed, on the law, with costs, and that branch of the motion of the defendant New York City Transit Authority which was for summary judgment dismissing the complaint insofar as asserted against it is granted.

The defendant New York City Transit Authority made a prima facie showing of entitlement to judgment as a matter of law (*see Trainer v City of New York*, 41 AD3d 202). In opposition, the plaintiff failed to raise a triable issue of fact (*see Alvarez v Prospect Hosp.*, 58 NY2d 320).

FISHER, J.P., MILLER, McCARTHY and CHAMBERS, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court

March 18, 2008

SCALTRO v NEW YORK CITY TRANSIT AUTHORITY