

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

D18693
G/kmg

_____AD3d_____

Submitted - March 12, 2008

ROBERT A. SPOLZINO, J.P.
DAVID S. RITTER
MARK C. DILLON
RUTH C. BALKIN
JOHN M. LEVENTHAL, JJ.

2007-07718

DECISION & ORDER

James Summers, respondent, v
Teddy Cab Corp., et al., appellants.

(Index No. 30724/06)

Nancy L. Isserlis, Long Island City, N.Y. (Lawrence R. Miles of counsel), for appellants.

Keith DeVries, New York, N.Y., for respondent.

In an action to recover damages for personal injuries, the defendants appeal from an order of the Supreme Court, Kings County (Kramer, J.), dated July 12, 2007, which granted the plaintiff's motion for summary judgment on the issue of liability.

ORDERED that the order is affirmed, with costs.

In support of his motion for summary judgment, the plaintiff made a prima facie showing of negligence on the part of the defendant Siddiqi Mohammed Hansoti based on Hansoti's deposition testimony that he moved his taxicab into the plaintiff's traffic lane without first ascertaining that he could do so with safety, and collided with the plaintiff's motorcycle (*see* Vehicle and Traffic Law § 1128[a]; *Shuman v Maller*, 45 AD3d 566, 567; *White v Gooding*, 21 AD3d 485; *Neryaev v Solon*, 6 AD3d 510; *Calandra v Dishotsky*, 244 AD2d 376, 377). In opposition, the defendants failed to raise a triable issue of fact as to the comparative negligence of the plaintiff (*see Shuman v Maller*, 45 AD3d at 567; *McCain v Larosa*, 41 AD3d 792; *Bongiovi v Hoffman*, 18 AD3d 686, 687).

April 1, 2008

Page 1.

SUMMERS v TEDDY CAB CORP.

Accordingly, the plaintiff's motion for summary judgment on the issue of liability was properly granted.

SPOLZINO, J.P., RITTER, DILLON, BALKIN and LEVENTHAL, JJ., concur.

ENTER:

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

James Edward Pelzer
Clerk of the Court