

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

D18717  
X/hu

\_\_\_\_\_AD3d\_\_\_\_\_

Submitted - February 26, 2008

ROBERT A. SPOLZINO, J.P.  
DAVID S. RITTER  
FRED T. SANTUCCI  
EDWARD D. CARNI, JJ.

---

2007-03215

DECISION & ORDER

Samson Odumbo, respondent, v Gamage D.  
Perera, appellant.

(Index No. 13048/04)

---

Faust Goetz Schenker & Blee LLP, New York, N.Y. (Lisa L. Gokhulsingh of counsel), for appellant.

Romagnolo & Mingino, LLP, Staten Island, N.Y. (Michael J. Mingino and Jeffrey Berson of counsel), for respondent.

In an action to recover damages for personal injuries, the defendant appeals from an order of the Supreme Court, Richmond County (McMahon, J.), dated March 6, 2007, which denied his motion to vacate so much of a judgment of the same court entered January 31, 2007, as awarded interest from August 26, 2005, the date of an underlying order granting the plaintiff's motion for summary judgment on the issue of common-law liability.

ORDERED that the order is affirmed, with costs.

The plaintiff commenced this action seeking damages from the defendant as a result of an automobile collision. In an order dated August 26, 2005, the Supreme Court granted the plaintiff's motion for summary judgment on the issue of common-law liability. Thereafter, a trial on serious injury and damages was conducted, and the jury awarded the plaintiff the principal sum of \$35,000 for the noneconomic loss sustained as a result of the serious injury which he incurred in the accident. The subsequently entered judgment properly included interest on the damages award as of August 26, 2005, the date of the Supreme Court's order granting the plaintiff's motion for summary

April 1, 2008

Page 1.

ODUMBO v PERERA

judgment on the issue of common-law liability (*see Van Nostrand v Froehlich*, 44 AD3d 54, 62; *see also O'Brien v Barretta*, 44 AD3d 731).

Accordingly, the Supreme Court properly denied the defendant's motion to vacate so much of the judgment as awarded interest from August 26, 2005.

SPOLZINO, J.P., RITTER, SANTUCCI and CARNI, 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