

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

D19269  
Y/hu

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Submitted - April 9, 2008

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

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2007-06706

DECISION & ORDER

Jean H. Lundy, et al., respondents, v Meliton  
Llatin, et al., appellants.

(Index No. 37284/05)

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Morris Duffy Alonso & Faley, LLP, New York, N.Y. (Andrea Alonso and Anna J. Ervolina of counsel), for appellant.

Boyko & Associates, P.C., Brooklyn, N.Y. (Albert Rudgayzer of counsel), for respondent.

In an action to recover damages for personal injuries, the defendants appeal from an order of the Supreme Court, Kings County (Schneier, J.), dated June 15, 2007, which granted the plaintiffs' motion for summary judgment on the issue of liability.

ORDERED that the order is affirmed, with costs.

This action arose when the defendants' vehicle struck the plaintiffs' vehicle in the rear. The plaintiffs made a prima facie showing of entitlement to summary judgment by submitting the deposition testimony of the plaintiff driver. It then became incumbent upon the defendants to come forward with a nonnegligent explanation for the collision (*see Rainford v Sung S. Han*, 18 AD3d 638, 639; *Niyazov v Bradford*, 13 AD3d 501; *Russ v Investech Sec.*, 6 AD3d 602), which they failed to do. The defendants' bare claim that the plaintiffs' vehicle abruptly slowed down or stopped, without more, under the circumstances of this case, was insufficient to raise a triable issue of fact as to whether the plaintiff driver was negligent, and, if so, whether such negligence was a proximate cause

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of the accident (*see Reed v New York City Tr. Auth.*, 299 AD2d 330; *see also Belitsis v Airborne Express Frgt. Corp.*, 306 AD2d 507, 508; *Vecchio v Hildebrand*, 304 AD2d 749, 750; *Barberena v Budd Enters.*, 299 AD2d 305; *McGregor v Manzo*, 295 AD2d 487).

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 style with a large, looping initial "J".

James Edward Pelzer  
Clerk of the Court