

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

D19365
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_____AD3d_____

Argued - April 24, 2008

A. GAIL PRUDENTI, P.J.
HOWARD MILLER
EDWARD D. CARNI
CHERYL E. CHAMBERS, JJ.

2007-00658
2007-03541

DECISION & ORDER

Teresa Kletke, appellant, v GOS Corp., etc.,
respondent.

(Index No. 11902/04)

Charles Berkman, Brooklyn, N.Y. (Thomas Torto of counsel), for appellant.

John P. Humphreys, Melville, N.Y. (Scott W. Driver of counsel), for respondent.

In an action to recover damages for personal injuries, the plaintiff appeals from (1) an order of the Supreme Court, Queens County (Price, J.), entered September 25, 2006, which granted the defendant's motion for summary judgment dismissing the complaint, and (2) an order of the same court (Cullen, J.), dated March 12, 2007, which denied her motion for leave to renew her opposition to the defendant's motion.

ORDERED that the orders are affirmed, with one bill of costs.

The defendant established its prima facie entitlement to judgment as a matter of law (*see Alvarez v Prospect Hosp.*, 68 NY2d 320, 324) by demonstrating that the plaintiff, who was walking in the defendant's basement hallway, was unable to identify the cause of her accident (*see Slattery v O'Shea*, 46 AD3d 669; *Manning v 6638 18th Ave. Realty Corp.*, 28 AD3d 434; *Visconti v 110 Huntington Assoc.*, 272 AD2d 320). In opposition, the plaintiff failed to submit evidence sufficient to raise a triable issue of fact.

May 20, 2008

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The Supreme Court properly denied the plaintiff's motion for leave to renew her opposition to the defendant's motion because the new facts proffered would not have changed the prior determination (*see* CPLR 2221[e]; *Madison v Tahir*, 45 AD3d 744; *State Farm Mut. Auto. Ins. Co. v Hertz Corp.*, 43 AD3d 907).

PRUDENTI, P.J., MILLER, CARNI and CHAMBERS, 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