

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

D19429  
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Argued - April 25, 2008

STEVEN W. FISHER, J.P.  
FRED T. SANTUCCI  
RUTH C. BALKIN  
ARIEL E. BELEN, JJ.

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2007-05815

DECISION & ORDER

Peter DiBetta, et al., appellants, v Penny  
Silberberg, et al., respondents, et al., defendant.

(Index No. 10941/04)

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Ameduri, Galante & Friscia, Staten Island, N.Y. (Marvin Ben-Aron of counsel), for appellants.

Kelly, Rode & Kelly, LLP, Mineola, N.Y. (George J. Wilson, Daniel E. Cerritos, and John Hoefing of counsel), for respondents.

In an action to recover damages for personal injuries, etc., the plaintiffs appeal from so much of an order of the Supreme Court, Richmond County (McMahon, J.), dated May 15, 2007, as denied that branch of their motion which was, in effect, pursuant to CPLR 3025(b) for leave to amend the complaint to name an additional defendant.

ORDERED that the order is affirmed insofar as appealed from, with costs.

Under the circumstances of this case, the Supreme Court did not improvidently exercise its discretion in denying that branch of the plaintiffs' motion which was, in effect, pursuant to CPLR 3025(b) for leave to amend their complaint to name an additional defendant (*see* CPLR 3025[b]; *Sidor v Zuhoski*, 257 AD2d 564; *see also* *Ruddock v Boland Rentals*, 5 AD3d 368; *Tucker v Lorieo*, 291 AD2d 261; *Leszczynski v Kelly & McGlynn*, 281 AD2d 519, 520; *Reid v Niagara Mach. & Tool Co.*, 170 AD2d 662; *Miller v Farina*, 58 AD2d 731).

May 27, 2008

DiBETTA v SILBERBERG

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The plaintiffs' remaining contentions are without merit.

FISHER, J.P., SANTUCCI, BALKIN and BELEN, JJ., concur.

ENTER:

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

James Edward Pelzer  
Clerk of the Court