

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

D19493
X/kmg

_____AD3d_____

Argued - May 8, 2008

REINALDO E. RIVERA, J.P.
ROBERT A. SPOLZINO
THOMAS A. DICKERSON
RANDALL T. ENG, JJ.

2007-01555

DECISION & ORDER

Stephen Anderson, appellant, v Chariclia
Kantares, defendant, Helen Minadis, respondent.

(Index No. 27570/03)

Wallace, Witty, Frampton & Veltry, P.C., Brentwood, N.Y. (Peter J. Graff of
counsel), for appellant.

Marshall, Conway, Wright & Bradley, P.C. (Max W. Gershweir, New York, N.Y.
[Jennifer B. Ettinger] of counsel), for respondent.

In an action to recover damages for personal injuries, the plaintiff appeals from an
order of the Supreme Court, Queens County (Satterfield, J.), dated January 4, 2007, which granted
the motion of the defendant Helen Minadis for summary judgment dismissing the complaint insofar
as asserted against her.

ORDERED that the order is reversed, on the law, with costs, and the motion of the
defendant Helen Minadis for summary judgment dismissing the complaint insofar as asserted against
her is denied.

The Supreme Court erred in entertaining the motion of the defendant Helen Minadis
(hereinafter the defendant) for summary judgment, which was made returnable 29 days beyond the
deadline fixed by the Supreme Court in the so-ordered stipulation, where she failed to demonstrate
good cause for the delay (*see* CPLR 3212[a]; *Brill v City of New York*, 2 NY3d 648, 652;
DiBenedetto v Lowe's Home Ctrs., Inc., 43 AD3d 853). The testimony of the nonparty witness,
whose deposition transcript the defendant was reportedly awaiting, was not relevant to the

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defendant's motion (*see Jackson v Jamaica First Parking, LLC*, 49 AD3d 501; *Tower Ins. Co. of N.Y. v Razy Assoc.*, 37 AD3d 702, 703; *Espejo v Hiro Real Estate Co.*, 19 AD3d 360, 361). Accordingly, the Supreme Court erred in reaching the merits of the motion (*see Brill v City of New York*, 2 NY3d at 650).

RIVERA, J.P., SPOLZINO, DICKERSON and ENG, 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