

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

D19680  
C/cb

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Submitted - May 20, 2008

REINALDO E. RIVERA, J.P.  
DAVID S. RITTER  
HOWARD MILLER  
MARK C. DILLON, JJ.

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2007-03675

DECISION & ORDER

Daniel Turturro, appellant, v Henry Squatrito, Jr.,  
et al., respondents.

(Index No. 12336/04)

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Schwartz & Ponterio, PLLC, New York, N.Y. (John Ponterio of counsel), for appellant.

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

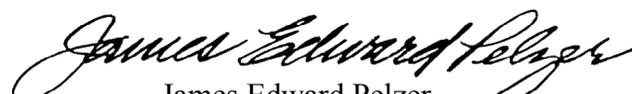
In an action to recover damages for trespass, the plaintiff appeals from a judgment of the Supreme Court, Suffolk County (Pitts, J.), entered March 7, 2007, which, upon an order of the same court dated January 5, 2007, granting the defendants' motion for summary judgment dismissing the complaint, is in favor of the defendants and against her, dismissing the complaint.

ORDERED that the judgment is affirmed, with costs.

The defendants demonstrated that they did not willfully commit the alleged trespass (*see Ivancic v Olmstead*, 66 NY2d 349, 352, *cert denied* 476 US 1117; *Kulpa v Stewart's Ice Cream*, 144 AD2d 205, 207). This showing was sufficient to establish their prima facie entitlement to summary judgment (*see Zuckerman v City of New York*, 49 NY2d 557). In opposition, the plaintiff failed to raise a triable issue of fact.

RIVERA, J.P., RITTER, MILLER and DILLON, JJ., concur.

ENTER:

  
James Edward Pelzer

June 17, 2008

TURTURRO v SQUATRITO

Clerk of the Court

June 17, 2008

TURTURRO v SQUATRITO