

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

D20887
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_____AD3d_____

Submitted - October 8, 2008

STEVEN W. FISHER, J.P.
ROBERT A. LIFSON
JOSEPH COVELLO
RUTH C. BALKIN, JJ.

2008-02161

DECISION & ORDER

Frank Passariello, respondent, v Joseph Lockovich,
appellant.

(Index No. 100271/05)

Stockschlaeder, McDonald & Sules, P.C., New York, N.Y. (Richard T. Sules and
Gail S. Karan of counsel), for appellant.

Calcagno & Associates, Staten Island, N.Y. (Craig A. Borgen of counsel), for
respondent.

In an action to recover damages for personal injuries, the defendant appeals from an
order of the Supreme Court, Richmond County (Gigante, J.), dated August 13, 2007, which denied
his motion for summary judgment dismissing the complaint.

ORDERED that the order is affirmed, without costs or disbursements.

There are issues of fact requiring the denial of summary judgment (*see generally*
Alvarez v Prospect Hosp., 68 NY2d 320, 324).

FISHER, J.P., LIFSON, COVELLO and BALKIN, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

October 28, 2008

PASSARIELLO v LOCKOVICH