

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

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_____AD3d_____

Argued - October 27, 2008

REINALDO E. RIVERA, J.P.
ROBERT A. LIFSON
RANDALL T. ENG
CHERYL E. CHAMBERS, JJ.

2008-00310

DECISION & ORDER

Hugo Giannotti, etc., appellant, v Mercedes Benz
U.S.A., LLC, et al., respondents, et al., defendants.

(Index No. 23472/03)

Egan & Golden, LLP, Patchogue, N.Y. (Brian T. Egan and Erin B. Kowtna of counsel), for appellant.

Herzfeld & Rubin, P.C., New York, N.Y. (David B. Hamm, Edward L. Birnbaum, and David M. Rice of counsel), for respondents.

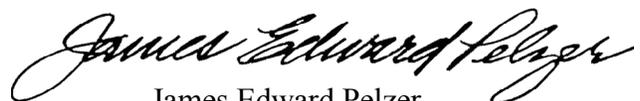
In an action to recover damages for personal injuries, the plaintiff appeals from an order of the Supreme Court, Suffolk County (R. Doyle, J.), dated November 15, 2007, which granted the motion of the defendants Mercedes Benz U.S.A., LLC, DaimlerChrysler AG, Mercedes Benz of Greenwich, and Competition Imports, Inc., in effect, for summary judgment dismissing the demand for punitive damages insofar as asserted against them.

ORDERED that the order is affirmed, with costs.

The respondents established, as a matter of law, that their conduct did not warrant the imposition of punitive damages (*see Home Ins. Co. v American Home Prods. Corp.*, 75 NY2d 196, 203-204; *Roginsky v Richardson-Merrell*, 378 F2d 832, 843; *West v Goodyear Tire & Rubber Co.*, 973 F Supp 385, 389; *see also Lugo v LJM Toys*, 146 AD2d 168, 171, *affd* 75 NY2d 850). In opposition, the appellant failed to raise a triable issue of fact.

RIVERA, J.P., LIFSON, ENG and CHAMBERS, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

November 18, 2008

GIANNOTTI v MERCEDES BENZ U.S.A., LLC