

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

D21941
W/prt

_____AD3d_____

Argued - December 19, 2008

WILLIAM F. MASTRO, J.P.
ANITA R. FLORIO
RUTH C. BALKIN
RANDALL T. ENG, JJ.

2008-02891

DECISION & ORDER

Gustavo Peralta, et al., respondents, v All Weather
Tire Sales & Service, Inc., et al., defendants,
Danilo Mendez, defendant-appellant, Falken Tire
Corp., et al., defendants third-party plaintiffs;
Rosemary Peralta, third-party defendant-appellant
(and additional third-party actions).

(Index No. 34057/98)

Picciano & Scahill, P.C., Westbury, N.Y. (Gilbert J. Hardy and Francis J. Scahill of
counsel), for appellants.

Argyropoulos & Bender, Astoria, N.Y. (Michael S. Bender of counsel), for
respondents.

In an action to recover damages for personal injuries, etc., the defendant Danilo Mendez and the third-party defendant Rosemary Peralta appeal from an order of the Supreme Court, Kings County (Rothenberg, J.), dated January 31, 2008, which denied their motion for leave to reargue their opposition to that branch of the plaintiffs' motion which was to enforce a written settlement agreement dated June 7, 2004, which had been determined in an order of the same court dated August 31, 2007.

ORDERED that the appeal is dismissed, without costs or disbursements, as no appeal lies from an order denying reargument (*see Vandewinckel v Northport/East Northport Union Free*

January 27, 2009

Page 1.

PERALTA v ALL WEATHER TIRE SALES & SERVICE, INC.

School Dist., 24 AD3d 432, 433; *High v County of Westchester*, 238 AD2d 476; *Foley v Roche*, 68 AD2d 558, 568).

MASTRO, J.P., FLORIO, BALKIN and ENG, JJ., concur.

ENTER:

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

James Edward Pelzer
Clerk of the Court