

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

D22636  
Y/hu

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Argued - December 9, 2008

STEVEN W. FISHER, J.P.  
HOWARD MILLER  
EDWARD D. CARNI  
RUTH C. BALKIN, JJ.

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2007-09832

DECISION & ORDER

Jamillah K. Rasheed-Waters, appellant, et al.,  
plaintiff, v Kawasaki Rail Car, Inc., respondent,  
et al., defendants.

(Index No. 24097/04)

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Kahn Gordon Timko & Rodriques, P.C., New York, N.Y. (Nicholas I. Timko of counsel), for appellant.

Strongin Rothman & Abrams, LLP, New York, N.Y. (Howard F. Strongin and Annette G. Hasapidis of counsel), for respondent.

In an action, inter alia, to recover damages for personal injuries, etc., based on strict products liability, the plaintiff Jamillah K. Rasheed-Waters appeals, as limited by her brief, from so much of an order of the Supreme Court, Queens County (Satterfield, J.), dated September 18, 2007, as granted that branch of the motion of the defendant Kawasaki Rail Car, Inc., which was for summary judgment dismissing the causes of action asserted by her and denied that branch of her cross motion which was for summary judgment on the issue of liability.

ORDERED that the order is modified, on the law, by deleting the provision thereof granting that branch of the motion of the defendant Kawasaki Rail Car, Inc., which was for summary judgment dismissing the causes of action asserted by the appellant and substituting therefor a provision denying that branch of the motion; as so modified, the order is affirmed insofar as appealed from, without costs or disbursements.

March 31, 2009

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There are issues of fact requiring the denial of summary judgment to both parties on this appeal (*see* CPLR 3212).

FISHER, J.P., MILLER, CARNI and BALKIN, 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