

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

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Argued - April 27, 2009

ROBERT A. SPOLZINO, J.P.
JOSEPH COVELLO
DANIEL D. ANGIOLILLO
THOMAS A. DICKERSON, JJ.

2008-02222

DECISION & ORDER

Joseph Nabbore, appellant, v Jason Schneider,
et al., respondents.

(Index No. 17382/06)

John J. Guadagno, East Islip, N.Y. (Joseph R. D'Addario of counsel), for appellant.

Neil L. Kanzer, Garden City, N.Y. (Lorraine M.Korth 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 (Spinner, J.), dated January 29, 2008, which denied his motion for summary judgment on the issue of liability.

ORDERED that the order is affirmed, with costs.

The plaintiff made a prima facie showing of entitlement to judgment as a matter of law by submitting the defendant driver's deposition testimony that the accident occurred when the defendant driver exited a driveway and made a left turn across the plaintiff's lane of travel in violation of Vehicle and Traffic Law § 1143 (*cf. Ferrara v Castro*, 283 AD2d 392, 392-393; *Yasinovsky v Lenio*, 28 AD3d 652, 653). In opposition, however, the defendants raised a triable issue of fact as to whether the defendant driver's negligence, if any, was a substantial factor in causing the accident (*cf. Gerdvil v Tarnowski*, 43 AD3d 995, 995-996). Accordingly, the Supreme Court properly denied the plaintiff's motion for summary judgment on the issue of liability.

SPOLZINO, J.P., COVELLO, ANGIOLILLO and DICKERSON, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

May 12, 2009

NABBORE v SCHNEIDER