

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

D23349
W/hu

____AD3d____

Argued - April 23, 2009

A. GAIL PRUDENTI, P.J.
HOWARD MILLER
RANDALL T. ENG
ARIEL E. BELEN, JJ.

2008-04605

DECISION & ORDER

Yasser Desouki, etc., appellant, v Joel P. Keeler,
et al., respondents.

(Index No. 28772/06)

Decolator, Cohen & DiPrisco, LLP, Garden City, N.Y. (Joseph L. Decolator of counsel), for appellant.

Robert P. Tusa (Sweetbaum & Sweetbaum, Lake Success, N.Y. [Marshall D. Sweetbaum], of counsel), for respondents.

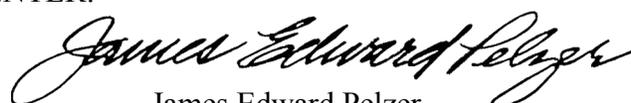
In an action to recover damages for personal injuries, the plaintiff appeals from an order of the Supreme Court, Kings County (Ruchelsman, J.), dated April 14, 2008, which granted the defendants' motion for summary judgment dismissing the complaint.

ORDERED that the order is affirmed, with costs.

The defendants demonstrated their prima facie entitlement to judgment as a matter of law by establishing that the plaintiff, who was riding his bicycle without operational brakes, proceeded into an intersection and failed to yield the right of way to the defendants' approaching motor vehicle (*see* Vehicle and Traffic Law § 1231; *Trzepak v Jara*, 11 AD3d 531). The conclusory and speculative findings set forth in the affidavit of the plaintiff's expert concerning the possible negligence of the defendant driver in failing to avoid the accident did not raise a triable issue of fact (*see Trzepak v Jara*, 11 AD3d at 531). Accordingly, the Supreme Court properly granted the defendants' motion for summary judgment dismissing the complaint.

PRUDENTI, P.J., MILLER, ENG and BELEN, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

May 26, 2009

DESOUKI v KEELER