

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

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_____AD3d_____

Argued - May 5, 2009

ANITA R. FLORIO, J.P.
HOWARD MILLER
JOSEPH COVELLO
LEONARD B. AUSTIN, JJ.

2008-07938

DECISION & ORDER

Debra Drevis, respondent, v Pintu Ahmed, appellant.

(Index No. 1952/07)

Ryan, Perrone & Hartlein, P.C., Mineola, N.Y. (William T. Ryan and Robin Mary Heaney of counsel), for appellant.

H. Bruce Fischer, P.C., New York, N.Y., for respondent.

In an action to recover damages for personal injuries and injury to property, the defendant appeals, as limited by his brief, from so much of an order of the Supreme Court, Queens County (Dollard, J.), entered July 8, 2008, as granted the plaintiff's motion for summary judgment on the issue of liability.

ORDERED that the order is affirmed insofar as appealed from, with costs.

The plaintiff demonstrated her prima facie entitlement to judgment as a matter of law (*see Alvarez v Prospect Hosp.*, 68 NY2d 320, 324). The plaintiff established, prima facie, that an independent contractor employed by the defendant was negligent, that the independent contractor's negligent act caused her to sustain certain injuries, and that the defendant was vicariously liable for that negligent act (*see Brothers v New York State Elec. & Gas Corp.*, 11 NY3d 251, 257; *Kleeman v Rheingold*, 81 NY2d 270, 273; *Rosenberg v Equitable Life Assur. Socy. of U.S.*, 79 NY2d 663, 668; *Feliberty v Damon*, 72 NY2d 112, 118-119; *see also* Multiple Dwelling Law § 78[1]). In opposition, the defendant failed to raise a triable issue of fact (*see Alvarez v Prospect Hosp.*, 68

June 9, 2009

DREVIS v AHMED

Page 1.

NY2d at 324). Accordingly, the Supreme Court properly granted the plaintiff's motion for summary judgment on the issue of liability.

FLORIO, J.P., MILLER, COVELLO and AUSTIN, JJ., concur.

ENTER:

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

James Edward Pelzer
Clerk of the Court