

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

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_____AD3d_____

Argued - September 17, 2009

STEVEN W. FISHER, J.P.
JOSEPH COVELLO
DANIEL D. ANGIOLILLO
SHERI S. ROMAN, JJ.

2008-06628

DECISION & ORDER

Mario Morales, appellant, v Hawkeye Construction,
LLP, et al., respondents.

(Index No. 7768/06)

Bornstein & Emanuel, P.C. (Anita Nissan Yehuda, P.C., Roslyn Heights, N.Y., of
counsel), for appellant.

Wilson, Elser, Moskowitz, Edelman & Dicker LLP, New York, N.Y. (Gregory S.
Katz, Kenneth L. London, and Jamie C. Kulowitz of counsel), for respondents.

In an action to recover damages for personal injuries, the plaintiff appeals, as limited by his brief, from so much of an order of the Supreme Court, Nassau County (LaMarca, J.), entered May 8, 2008, as, upon reargument, in effect, adhered to its determination in a prior order entered December 10, 2007, granting those branches of the defendants' motion which were for summary judgment in their favor on the issues of whether the defendant driver was speeding and violated Vehicle and Traffic Law § 1151(a) by failing to yield to the plaintiff who was walking in an intersection, and whether the plaintiff violated Vehicle and Traffic Law § 1151(b).

ORDERED that the order entered May 8, 2008, is reversed insofar as appealed from, on the law, with costs, and, upon reargument, the order entered December 10, 2007, is vacated, and the defendants' motion for summary judgment is denied in its entirety.

October 27, 2009

MORALES v HAWKEYE CONSTRUCTION, LLP

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There are issues of fact requiring the denial of the defendants' motion for summary judgment in its entirety.

FISHER, J.P., COVELLO, ANGIOLILLO and ROMAN, 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