

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

D26417
H/prt

_____AD3d_____

Argued - February 4, 2010

REINALDO E. RIVERA, J.P.
FRED T. SANTUCCI
RANDALL T. ENG
CHERYL E. CHAMBERS, JJ.

2008-11701

DECISION & ORDER

Michael Perez, etc., et al., plaintiffs-respondents, v
2246 Holding Corp., defendant-respondent, Chama
Holding Corp., appellant.

(Index No. 1683/04)

Scher & Scher, P.C., Great Neck, N.Y. (Robert A. Scher of counsel), for appellant.

Levy, Phillips & Konigsberg, LLP, New York, N.Y. (Alan J. Konigsberg and Daniel
J. Woodard of counsel), for plaintiffs-respondents.

Silverson, Pareres & Lombardi LLP (Mauro Goldberg & Lilling LLP, Great Neck,
N.Y. [Katherine Herr Solomon and Caryn L. Lilling], of counsel), for defendant-
respondent.

In an action to recover damages for personal injuries, etc., the defendant Chama Holding Corp. appeals, as limited by its brief, from stated portions of an order of the Supreme Court, Kings County (Starkey, J.), dated October 1, 2008, which, inter alia, denied those branches of its cross motion which were pursuant to CPLR 4404(a) to set aside so much of a jury verdict as found that it was 30% at fault for the injuries sustained by the plaintiff Michael Perez and for judgment as a matter of law, or to set aside that portion of the jury verdict as contrary to the weight of the evidence and for a new trial.

ORDERED that the order is affirmed insofar as appealed from, with one bill of costs payable to the respondents appearing separately and filing separate briefs.

March 9, 2010

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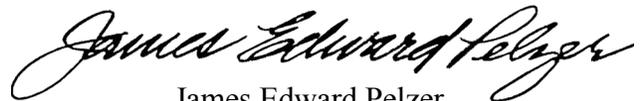
PEREZ v 2246 HOLDING CORP.

Chama Holding Corp. (hereinafter Chama) argues that there was insufficient evidence to establish that the individual who managed the building where the injured plaintiff sustained his injuries was acting within the scope of his employment with Chama, or that Chama was negligent in its management of the building. These contentions are without merit. When a party moves pursuant to CPLR 4404(a) to set aside a verdict as unsupported by legally sufficient evidence and for judgment as a matter of law, the court must determine whether “there is simply no valid line of reasoning and permissible inferences which could possibly lead rational [people] to the conclusion reached by the jury on the basis of the evidence presented at trial” (*Cohen v Hallmark Cards*, 45 NY2d 493, 499; *see Amachee v Mohammed*, 57 AD3d 812). Viewing the evidence in the light most favorable to the plaintiffs, as we must (*see Alexander v Eldred*, 63 NY2d 460, 464; *Lauria v City of New York*, 52 AD3d 577, 578), we find that a valid line of reasoning and permissible inferences could lead rational people to the conclusion reached by the jury herein. Moreover, the verdict was supported by a fair interpretation of the evidence (*see Lolik v Big V Supermarkets*, 86 NY2d 744, 746; *Nicastro v Park*, 113 AD2d 129, 134).

Chama’s remaining contentions are without merit.

RIVERA, J.P., SANTUCCI, ENG and CHAMBERS, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court