

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

D26683
O/kmg

_____AD3d_____

Submitted - March 11, 2010

STEVEN W. FISHER, J.P.
MARK C. DILLON
THOMAS A. DICKERSON
ARIEL E. BELEN, JJ.

2008-09968

DECISION & ORDER

Richard J. Schaller, appellant,
v County of Suffolk, et al., respondents.

(Index No. 12349/05)

Richard J. Schaller, Centerport, N.Y., appellant pro se.

Christine Malafi, County Attorney, Hauppauge, N.Y. (Marcia J. Lynn of counsel), for
respondent County of Suffolk (no brief filed).

Gordon & Silber, P.C., New York, N.Y. (Andrew B. Kaufman of counsel), for
respondents James Kilmeade and Lauren Kilmeade.

In an action, inter alia, to recover damages for personal injuries, the plaintiff appeals from a judgment of the Supreme Court, Suffolk County (Jones, J.), entered August 22, 2008, which, upon an order of the same court dated June 17, 2008, granting the motion of the defendants County of Suffolk, Suffolk County Sheriff's Department, and Suffolk County Police Department, and the separate motion of the defendants James Kilmeade and Lauren Kilmeade, for summary judgment dismissing the complaint insofar as asserted against each of them, is in favor of the defendants and against him. The notice of appeal from the order dated June 17, 2008, is deemed to be a notice of appeal from the judgment entered August 22, 2008 (*see* CPLR 5512[a]).

ORDERED that the judgment is affirmed, with one bill of costs payable to the respondents James Kilmeade and Lauren Kilmeade.

The defendants satisfied their prima facie burden of establishing their entitlement to

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judgment as a matter of law (*see Zuckerman v City of New York*, 49 NY2d 557, 562). In opposition, the plaintiff failed to raise a triable issue of fact (*see Alvarez v Prospect Hosp.*, 68 NY2d 320, 324). Accordingly, the Supreme Court properly granted the defendants' separate motions for summary judgment dismissing the complaint insofar as asserted against each of them.

The plaintiff's remaining contentions are without merit or are not properly before this Court.

FISHER, J.P., DILLON, DICKERSON and BELEN, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court