

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

D27788  
Y/hu

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Argued - May 18, 2010

MARK C. DILLON, J.P.  
HOWARD MILLER  
CHERYL E. CHAMBERS  
PLUMMER E. LOTT, JJ.

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2009-05277

DECISION & ORDER

Yehoshua Rapps, respondent, v City of New York,  
et al., appellants, et al., defendant.

(Index No. 11079/01)

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Conway, Farrell, Curtin & Kelly, P.C., New York, N.Y. (Jonathan T. Uejio of counsel), for appellants.

Dennis Rapps, New York, N.Y., for respondent.

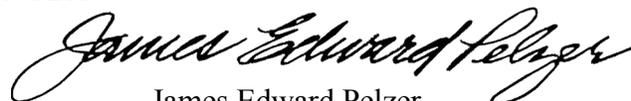
In an action to recover damages for personal injuries, the defendants City of New York and Columbus Construction Corp. appeal from an order of the Supreme Court, Kings County (Schmidt, J.), dated January 16, 2009, which denied their motion for summary judgment dismissing the complaint insofar as asserted against them.

ORDERED that the order is reversed, on the law, with costs, and the motion of the defendants City of New York and Columbus Construction Corp. for summary judgment dismissing the complaint insofar as asserted against them is granted.

In response to the establishment by the defendants City of New York and Columbus Construction Corp. (hereinafter the movants) of their prima facie entitlement to judgment as a matter of law, the plaintiff failed to submit evidence sufficient to raise a triable issue of fact (*see Alvarez v Prospect Hosp.*, 68 NY2d 320). Accordingly, the Supreme Court should have granted the movants' motion for summary judgment dismissing the complaint insofar as asserted against them.

DILLON, J.P., MILLER, CHAMBERS and LOTT, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court

July 6, 2010

RAPPS v CITY OF NEW YORK