

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

D28738
H/kmg

_____AD3d_____

Argued - October 7, 2010

STEVEN W. FISHER, J.P.
FRED T. SANTUCCI
RANDALL T. ENG
SANDRA L. SGROI, JJ.

2009-02412

DECISION & ORDER

Patrizia Vittorio, etc., appellant, v U-Haul Company,
et al., respondents, et al., defendant.

(Index No. 1404/04)

Frederick Bittner, Jr., Poughkeepsie, N.Y., for appellant.

Nicoletti, Gonson, Spinner & Owen, LLP, New York, N.Y. (Kevin F. Pinter and
Pauline E. Glaser of counsel), for respondents.

In an action to recover damages for personal injuries, the plaintiff appeals from a judgment of the Supreme Court, Dutchess County (Sproat, J.), dated January 22, 2009, which, upon a jury verdict on the issue of liability, is in favor of the defendants U-Haul Company, U-Haul Company of New York, Inc., and U-Haul International, Inc., and against her dismissing the complaint insofar as asserted against those defendants.

ORDERED that the judgment is affirmed, with costs.

The plaintiff's contention that the verdict sheet interrogatories failed to state the appropriate standard to be applied by the jury in determining the issue of the respondents' liability is unpreserved for appellate review (*see Laboda v VJV Dev. Corp.*, 296 AD2d 441; *Calabrese v Cheung W. Chan*, 244 AD2d 376).

Contrary to the plaintiff's contention, the verdict was not contrary to the weight of the evidence. The evidence did not so preponderate in favor of the plaintiff that the verdict in favor of the respondents could not have been reached on any fair interpretation of the evidence (*see Lolik*

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v Big V Supermarkets, 86 NY2d 744; *Barnett v Schwartz*, 47 AD3d 197, 205; *Slezak v Prime Automotive Parts Co.*, 233 AD2d 434; *Nicastro v Park*, 113 AD2d 129).

The plaintiff's remaining contention is unpreserved for appellate review.

FISHER, J.P., SANTUCCI, ENG and SGROI, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court