

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

D29207
G/prt

_____AD3d_____

Argued - November 5, 2010

WILLIAM F. MASTRO, J.P.
JOSEPH COVELLO
DANIEL D. ANGIOLILLO
PLUMMER E. LOTT, JJ.

2009-09274

DECISION & ORDER

Rose Kadaa, etc., appellant, v
Albert Ezra Kadaa, respondent.

(Index No. 30907/06)

Edward Vilinsky, Brooklyn, N.Y. (Jeffrey Stern of counsel), for appellant.

Connors & Connors, P.C., Staten Island, N.Y. (Michael J. Caulfield and David S. Heller of counsel), for respondent.

In an action to recover damages for personal injuries, the plaintiff appeals from an order of the Supreme Court, Kings County (Solomon, J.), dated July 7, 2009, which granted the defendant's motion for summary judgment dismissing the complaint.

ORDERED that the order is affirmed, with costs.

Contrary to the plaintiff's contention, the defendant established his prima facie entitlement to judgment as a matter of law dismissing the complaint as, under the circumstances, the defendant did not owe any duty of care to the plaintiff (*see Pulka v Edelman*, 40 NY2d 781; *Cruz v New York City Tr. Auth.*, 136 AD2d 196). 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 defendant's motion for summary judgment dismissing the complaint.

MASTRO, J.P., COVELLO, ANGIOLILLO and LOTT, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "Matthew G. Kiernan". The signature is written in a cursive, slightly slanted style.

Matthew G. Kiernan
Clerk of the Court