

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

D30292  
O/kmb

\_\_\_\_\_AD3d\_\_\_\_\_

Argued - February 8, 2011

JOSEPH COVELLO, J.P.  
PLUMMER E. LOTT  
SHERI S. ROMAN  
ROBERT J. MILLER, JJ.

---

2010-05250

DECISION & ORDER

Josef Bukharetsky, et al., respondents, v Court Street  
Office Supplies, Inc., et al., appellants.

(Index No. 17380/09)

---

Cohen, Kuhn & Associates, New York, N.Y. (Anthony Bianchi of counsel), for  
appellants.

Frank & Seskin, LLP, New York, N.Y. (Scott H. Seskin of counsel), for respondents.

In an action to recover damages for personal injuries, the defendants appeal from an  
order of the Supreme Court, Kings County (Vaughan, J.), dated April 7, 2010, which granted the  
plaintiffs' motion for summary judgment on the issue of liability.

ORDERED that the order is affirmed, with costs.

The Supreme Court properly granted the plaintiffs' motion for summary judgment on  
the issue of liability. The plaintiffs made a prima facie showing of entitlement to judgment as a matter  
of law by demonstrating that the defendant driver, Eli Beilus, was negligent in suddenly backing a  
van, owned by the defendant Court Street Office Supplies, Inc., into the cross walk where the plaintiff  
Josef Bukharetsky was standing, without taking proper precautions (*see* Vehicle and Traffic Law §  
1211[a]; *Ortiz v Calavera*, 26 AD3d 319, 319; *Garcia v Verizon N.Y., Inc.*, 10 AD3d 339; *Pressner  
v Serrano*, 260 AD2d 458, 459). In opposition, the defendants failed to raise a triable issue of fact.  
The defendants' contention in opposition that triable issues of fact were raised as to the comparative  
negligence of the plaintiff Josef Bukharetsky was speculative and unsupported by the record (*see  
Williams v Econ*, 221 AD2d 429, 430; *Ortiz v Calavera*, 26 AD3d at 319). Moreover, the  
defendants failed to demonstrate that further discovery was warranted (*see Benedikt v Certified Lbr.*

March 8, 2011

BUKHARETSKY v COURT STREET OFFICE SUPPLIES, INC.

Page 1.

*Corp.*, 60 AD3d 798; *Lopez v WS Distrib., Inc.*, 34 AD3d 759, 760).

Accordingly, the Supreme Court properly granted the plaintiffs' motion for summary judgment on the issue of liability.

COVELLO, J.P., LOTT, ROMAN and MILLER, JJ., concur.

ENTER:

  
Matthew G. Kiernan  
Clerk of the Court