

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

D30679
G/kmb

_____AD3d_____

Submitted - March 4, 2011

WILLIAM F. MASTRO, J.P.
PETER B. SKELOS
RUTH C. BALKIN
SHERI S. ROMAN, JJ.

2010-02501

DECISION & ORDER

Semroy Burton, plaintiff-respondent, v City of New York, et al., defendants-respondents, Keyspan Energy Delivery, appellant.

(Index No. 49377/01)

Cullen & Dykman, LLP, Brooklyn, N.Y. (Kevin C. McCaffery of counsel), for appellant.

G. Wesley Simpson, P.C., Brooklyn, N.Y., for plaintiff-respondent.

In an action to recover damages for personal injuries, the defendant Keyspan Energy Delivery appeals from an order of the Supreme Court, Kings County (Velasquez, J.), dated October 30, 2009, which granted the motion of Lola Lolita Burton for leave to be substituted, as personal representative of the estate of Semroy Burton, for Semroy Burton, and to amend the caption accordingly.

ORDERED that the order is affirmed, with costs.

The Supreme Court properly granted the motion of Lola Lolita Burton (hereinafter Burton), for leave to be substituted, as personal representative of the estate of Semroy Burton, for Semroy Burton, and to amend the caption accordingly, in this action to recover damages for personal injuries. Contrary to the contention of the defendant Keyspan Energy Delivery, as the personal representative of the nondomiciliary decedent, authorized to so act by the State of Connecticut, Burton is a proper party to prosecute the action in accordance with the provisions of EPTL 13-3.5

April 5, 2011

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(see CPLR 1015; EPTL 13-3.5; *see also* Turano, Practice Commentaries, McKinney's Cons Laws of NY, Book 17B, EPTL 13-3.5).

MASTRO, J.P., SKELOS, BALKIN and ROMAN, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court