

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

D31553  
O/kmb

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Argued - May 17, 2011

WILLIAM F. MASTRO, J.P.  
THOMAS A. DICKERSON  
CHERYL E. CHAMBERS  
SHERI S. ROMAN, JJ.

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2010-08930

DECISION & ORDER

Tamara Rafailov, etc., et al., plaintiffs-respondents,  
v Alexey Bushuyev, et al., defendants-respondents,  
Leonid Ladyko, appellant, et al., defendants.

(Index No. 31186/08)

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Baker, McEvoy, Morrissey & Moskovits, P.C., New York, N.Y. (Colin Morrissey of counsel), for appellant.

Nagel Rice, LLP, New York, N.Y. (Greg M. Kohn of counsel), for plaintiffs-respondents.

In an action, inter alia, to recover damages for wrongful death, etc., the defendant Leonid Ladyko appeals from an order of the Supreme Court, Kings County (Lewis, J.), dated August 6, 2010, which denied his motion, in effect, for summary judgment dismissing the complaint and all cross claims insofar as asserted against him.

ORDERED that the order is affirmed, with costs.

In support of his motion for summary judgment, the defendant Leonid Ladyko failed to make a prima facie showing of his entitlement to judgment as a matter of law. Accordingly, the Supreme Court properly denied Ladyko's motion, in effect, for summary judgment dismissing the complaint and all cross claims insofar as asserted against him, regardless of the sufficiency of the opposition papers (*see Alvarez v Prospect Hosp.*, 68 NY2d 320, 324).

MASTRO, J.P., DICKERSON, CHAMBERS and ROMAN, JJ., concur.

ENTER:   
Matthew G. Kiernan  
Clerk of the Court

May 31, 2011

RAFAILOV v BUSHUYEV