

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

D31920
O/prt

_____AD3d_____

Argued - June 10, 2011

MARK C. DILLON, J.P.
JOSEPH COVELLO
CHERYL E. CHAMBERS
SHERI S. ROMAN, JJ.

2010-07165

DECISION & ORDER

Fredy Castillo, respondent, v Cheryl Valente,
et al., appellants, et al., defendants.

(Index No. 19784/05)

Baxter Smith & Shapiro, P.C., Hicksville, N.Y. (Dennis S. Heffernan and Anne Marie Garcia of counsel), for appellants.

Bragoli & Associates, P.C., Melville, N.Y. (Susan R. Nudelman and Christopher Bragoli of counsel), for respondent.

Kaplan Belsky Ross Bartell, LLP, Garden City, N.Y. (Lewis A. Bartell of counsel), for defendant Charles O'Donnell, doing business as Pro-Cission Construction.

In an action to recover damages for personal injuries, the defendants Cheryl Valente and Richard Valente, Jr., appeal, as limited by their brief, from so much of an order of the Supreme Court, Suffolk County (Baisley, Jr., J.), dated July 1, 2010, as denied that branch of their motion which was for summary judgment dismissing the complaint insofar as asserted against them as untimely.

ORDERED that the order is affirmed insofar as appealed from, with costs to the respondent.

The note of issue in this action was filed on December 9, 2008. The appellants filed their motion for summary judgment on April 16, 2009, more than 120 days after the filing of the note

June 28, 2011

Page 1.

CASTILLO v VALENTE

of issue. Since the appellants failed to show “good cause” for the delay, the Supreme Court properly denied as untimely that branch of their motion which was for summary judgment dismissing the complaint insofar as asserted against them (*see Brill v City of New York*, 2 NY3d 648, 652; *Riccardi v CVS Pharmacy, Inc.*, 60 AD3d 838; *Finger v Saal*, 56 AD3d 606, 606-607).

DILLON, J.P., COVELLO, CHAMBERS and ROMAN, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court