

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

D33116
H/mv

_____AD3d_____

Argued - November 4, 2011

WILLIAM F. MASTRO, A.P.J.
ANITA R. FLORIO
PLUMMER E. LOTT
JEFFREY A. COHEN, JJ.

2011-06144

DECISION & ORDER

Meng Wai Wang, appellant, v
Dailly News, L.P., et al., respondents.

(Index No. 152631/09)

Subin Associates, LLP (Pollack, Pollack, Isaac & De Cicco, New York, N.Y. [Brian J. Isaac and Jillian Rosen], of counsel), for appellant.

Harris, King & Fodera (Mauro Lilling Naparty LLP, Great Neck, N.Y. [Caryn L. Lilling and Jennifer B. Ettenger], of counsel), for respondents.

In an action to recover damages for personal injuries, the plaintiff appeals from an order of the Supreme Court, Kings County (Kramer, J.), dated May 13, 2011, which denied his motion for summary judgment on the issue of liability.

ORDERED that the order is affirmed, with costs.

On October 13, 2008, at approximately 3:00 A.M., the plaintiff was operating his motor vehicle in the right lane of the Brooklyn-bound side of the Manhattan Bridge. The plaintiff alleged that a truck owned by the defendant Dailly News, L.P., and operated by the defendant Giuseppe Amato, which was traveling in the left lane of the Brooklyn-bound side of the Manhattan Bridge directly adjacent to the plaintiff's vehicle, crossed the line dividing the two lanes of traffic into the right lane, striking the plaintiff's vehicle. After issue was joined and discovery was completed, the plaintiff moved for summary judgment on the issue of liability. The Supreme Court denied the motion. We affirm.

December 6, 2011

Page 1.

MENG WAI WANG v DAILLY NEWS, L.P.

The plaintiff established his prima facie entitlement to judgment as a matter of law on the issue of liability by submitting admissible evidence that Amato made an unsafe lane change in violation of Vehicle and Traffic Law § 1128(a). The burden then shifted to the defendants to raise a triable issue of fact (*see Harrison v Bailey*, 79 AD3d 811).

In opposition to the plaintiff's motion, the defendants submitted, inter alia, Amato's affidavit and his deposition testimony, which were sufficient to raise triable issues of fact as to whether the plaintiff was the party who made an unsafe lane change in violation of Vehicle and Traffic Law § 1128(a) (*see Harrison v Bailey*, 79 AD3d 811).

The plaintiff's remaining contentions are without merit.

Accordingly, the Supreme Court properly denied the plaintiff's motion for summary judgment on the issue of liability.

MASTRO, A.P.J., FLORIO, LOTT and COHEN, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court