

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

D33785
N/nl

_____AD3d_____

Submitted - January 10, 2012

RUTH C. BALKIN, J.P.
JOHN M. LEVENTHAL
ARIEL E. BELEN
SHERI S. ROMAN, JJ.

2011-00247

DECISION & ORDER

Vixamar Magloire, plaintiff-respondent, v Americo Sitner, et al., defendants-respondents, Valerie Mays, appellant.

(Index No. 22430/08)

Picciano & Scahill, P.C., Westbury, N.Y. (Francis J. Scahill and Andrea E. Ferrucci of counsel), for appellant.

Robert J. Renna, P.C., Brooklyn, N.Y. (Michael Banuchis of counsel), for plaintiff-respondent.

James Bilello, Westbury, N.Y. (Franshone Winn of counsel), for defendants-respondents.

In an action to recover damages for personal injuries, the defendant Valerie Mays appeals, as limited by her brief, from so much of an order of the Supreme Court, Kings County (Schack, J.), dated November 22, 2010, as denied her cross motion for summary judgment, in effect, dismissing the complaint and all cross claims insofar as asserted against her.

ORDERED that the order is affirmed insofar as appealed from, with one bill of costs payable to the respondents appearing separately and filing separate briefs.

This action arises out of a three-car accident on July 6, 2008, on Coney Island Avenue, in Brooklyn. The defendant Valerie Mays cross-moved for summary judgment, in effect, dismissing the complaint and all cross claims insofar as asserted against her. In the order appealed

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from, the Supreme Court, among other things, denied the cross motion. We affirm the order insofar as appealed from by Mays.

In support of her cross motion, Mays submitted evidence that, in itself, demonstrated the existence of triable issues of fact as to whether she was negligent in the happening of the accident. Consequently, she failed to establish her prima facie entitlement to judgment as a matter of law, and the Supreme Court properly denied her cross motion, without regard to the sufficiency of the opposition papers (*see Alvarez v Prospect Hosp.*, 68 NY2d 320, 324; *Darras v Romans*, 85 AD3d 710, 712).

BALKIN, J.P., LEVENTHAL, BELEN and ROMAN, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "Aprilanne Agostino". The signature is written in a cursive, flowing style.

Aprilanne Agostino
Clerk of the Court