

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

D34283  
Y/nl

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Argued - February 10, 2012

RUTH C. BALKIN, J.P.  
ARIEL E. BELEN  
L. PRISCILLA HALL  
ROBERT J. MILLER, JJ.

2011-10315

DECISION & ORDER

Christopher Hamilton, respondent, v King Tung Kong,  
appellant.

(Index No. 24748/10)

Law Office of Robert P. Tusa (Sweetbaum & Sweetbaum, Lake Success, N.Y.  
[Marshall D. Sweetbaum], of counsel), for appellant.

Robinson & Yablon, P.C., New York, N.Y. (Thomas Torto and Jason Levine of  
counsel), for respondent.

In an action to recover damages for personal injuries, the defendant appeals from an order of the Supreme Court, Queens County (Pineda-Kirwan, J.), dated September 7, 2011, which granted the plaintiff's motion for summary judgment on the issue of liability.

ORDERED that the order is affirmed, with costs.

The plaintiff pedestrian was crossing a street when he was struck by a vehicle owned and operated by the defendant. The plaintiff established, prima facie, his entitlement to judgment as a matter of law on the issue of liability by presenting proof that he was walking within a crosswalk and that he looked for approaching traffic before he began to cross (*see Rosenblatt v Venizelos*, 49 AD3d 519, 520; *see also* Vehicle and Traffic Law § 1151[a]; 34 RCNY 4-04[b]). Contrary to the defendant's contention, his unsupported speculation that the injured plaintiff was comparatively negligent was insufficient to raise a triable issue of fact in opposition to the motion (*see Zuckerman v City of New York*, 49 NY2d 557, 562; *Sulaiman v Thomas*, 54 AD3d 751, 752; *see also Platt v Wolman*, 29 AD3d 663, 663; *Klein v Byalik*, 1 AD3d 399, 400). Since the defendant failed to raise a triable issue of fact in opposition to the plaintiff's prima facie showing, the Supreme Court

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properly granted the plaintiff's motion for summary judgment on the issue of liability.

BALKIN, J.P., BELEN, HALL and MILLER, JJ., concur.

ENTER:

  
Aprilanne Agostino  
Clerk of the Court