

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

D34722  
O/kmb

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Argued - March 26, 2012

REINALDO E. RIVERA, J.P.  
L. PRISCILLA HALL  
PLUMMER E. LOTT  
LEONARD B. AUSTIN, JJ.

2011-05738

DECISION & ORDER

William Goldstein, appellant, v Hope Townsend,  
et al., respondents.

(Index No. 18160/09)

From, Wittels, Freund, Berne & Serra, P.C., Bronx, N.Y. (Richard W. Berne of counsel), for appellant.

Jacobson & Schwartz, LLP, Jericho, N.Y. (Henry J. Cernitz of counsel), for respondent Hope Townsend.

Lavin, O'Neil, Ricci, Cedrone & DiSipio, New York, N.Y. (Karina E. Murski of counsel), for respondents Gene H. Goldstein and Anthony J. Keller.

Frank J. Laurino, Bethpage, N.Y. (Barbara-Ann Anzelmo of counsel), for respondent Adhemar B. Campos.

In an action to recover damages for personal injuries, the plaintiff appeals from an order of the Supreme Court, Queens County (Nahman, J.), dated May 6, 2011, which granted the motion of the defendants Gene H. Goldstein and Anthony K. Keller, and the separate motions of the defendant Hope Townsend and the defendant Adhemar B. Campos, for summary judgment dismissing the complaint and all cross claims insofar as asserted against each of them, and denied, as academic, his cross motion for leave to serve a supplemental bill of particulars.

ORDERED that the order is affirmed, with one bill of costs payable to the defendants appearing separately and filing separate briefs.

The defendants established, prima facie, that under the circumstances of this case, the

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plaintiff's own actions were the sole proximate cause of his injuries (*see Blasso v Parente*, 79 AD3d 923, 925; *Vespe v Kazi*, 62 AD3d 408, 409; *Mankiewicz v Excellent*, 25 AD3d 591, 592-593; *Maccauley v Elrac, Inc.*, 6 AD3d 584, 585; *Barile v Lazzarini*, 222 AD2d 635, 637). In opposition, the plaintiff failed to raise a triable issue of fact as to whether any negligence on the part of the defendants was a proximate cause of the accident. Accordingly, the Supreme Court properly granted the defendants' separate motions for summary judgment dismissing the complaint and all cross claims insofar as asserted against each of them, and denied, as academic, the plaintiff's cross motion for leave to serve a supplemental bill of particulars.

RIVERA, J.P., HALL, LOTT and AUSTIN, JJ., concur.

ENTER:

  
Aprilanne Agostino  
Clerk of the Court