

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

D35233
C/hu

_____AD3d_____

Argued - May 4, 2012

PETER B. SKELOS, J.P.
JOHN M. LEVENTHAL
ARIEL E. BELEN
SHERI S. ROMAN, JJ.

2011-10729

DECISION & ORDER

Jacinto Z. Montes Rodriguez, respondent, v Edward
Catalano, et al., appellants.

(Index No. 5646/06)

Golderg Segalla LLP, Garden City, N.Y. (Marianne Arcieri and Paul S. Devine of
counsel), for appellants.

Dinkes & Schwitzer, P.C., New York, N.Y. (Naomi Skura and Jacob Galperin of
counsel), for respondent.

In an action to recover damages for personal injuries, the defendants appeal from an
order of the Supreme Court, Suffolk County (Jones, Jr., J.), dated October 3, 2011, which denied
their motion for summary judgment dismissing the complaint.

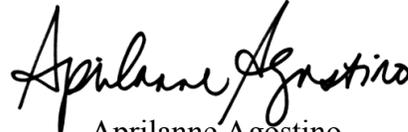
ORDERED that the order is reversed, on the law, with costs, and the defendants’
motion for summary judgment dismissing the complaint is granted.

The defendants demonstrated their prima facie entitlement to judgment as a matter
of law by providing evidence establishing that the plaintiff pedestrian entered a roadway from
“between stopped cars,” began crossing the roadway at a “fast” pace, and came into contact with the
right, rear side of a moving bus, and thus crossed the roadway in such a manner that the defendant
bus driver was unable to avoid contact with the plaintiff (*see Mancia v Metropolitan Tr. Auth. Long
Is. Bus*, 14 AD3d 665; *Blazer v Tri-County Ambulette Serv.*, 285 AD2d 575, 576; *Carrasco v
Monteforte*, 266 AD2d 330, 331; *Brown v City of New York*, 237 AD2d 398, 398-399). In
opposition, the plaintiff failed to raise a triable issue of fact as to whether the defendant bus driver
operated the bus in a negligent manner (*see Mancia v Metropolitan Tr. Auth. Long Is. Bus*, 14 AD3d

at 665). Accordingly, the Supreme Court should have granted the defendants' motion for summary judgment dismissing the complaint.

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

ENTER:


Aprilanne Agostino
Clerk of the Court