

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

D36261
C/ct

_____AD3d_____

Submitted - October 3, 2012

RANDALL T. ENG, P.J.
PETER B. SKELOS
CHERYL E. CHAMBERS
SANDRA L. SGROI, JJ.

2012-00335

DECISION & ORDER

Joyce Amoroso, respondent, v Stop and Shop, appellant,
et al., defendant.

(Index No. 30129/10)

Torino & Bernstein, P.C., Mineola, N.Y. (Bruce A. Torino of counsel), for appellant.

Economou & Economou, P.C., Syosset, N.Y. (Ralph C. Caio of counsel), for
respondent.

In an action to recover damages for personal injuries, the defendant Stop and Shop
appeals, as limited by its brief, from so much of an order of the Supreme Court, Queens County
(Hart, J.), entered December 20, 2011, as denied that branch of its motion which was to change the
venue of the action from Queens County to Nassau County.

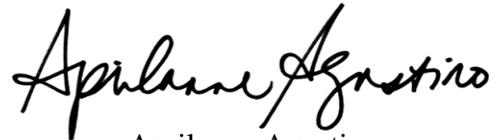
ORDERED that the order is affirmed insofar as appealed from, with costs.

The defendant Stop and Shop (hereinafter the moving defendant) failed to
demonstrate that the venue of this action should be changed from Queens County to Nassau County.
The moving defendant failed to substantiate its claim that, upon the discontinuance of this action
against the defendant Hempstead Turnpike, LLC, none of the parties was a resident of Queens
County, since it failed to submit any proof as to its own residence (*see generally* CPLR 503[a], [c];
cf. Messiha v Staten Is. Univ. Hosp., 77 AD3d 894, 895). Furthermore, the moving defendant failed
to demonstrate that venue should be transferred to Nassau County based on the convenience of
witnesses (*see* CPLR 510[3]; *O'Brien v Vassar Bros. Hosp.*, 207 AD2d 169). Accordingly, the
Supreme Court did not improvidently exercise its discretion in denying that branch of the moving

defendant's motion which was to change the venue to Nassau County.

ENG, P.J., SKELOS, CHAMBERS and SGROI, JJ., concur.

ENTER:

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

Aprilanne Agostino
Clerk of the Court