

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

D57446  
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Submitted - October 30, 2018

CHERYL E. CHAMBERS, J.P.  
SANDRA L. SGROI  
BETSY BARROS  
ANGELA G. IANNACCI, JJ.

2018-00110

DECISION & ORDER

Matthias Amyotte, appellant, v Armic Service Corp.,  
et al., respondents.

(Index No. 510384/15)

Ogen & Sedaghati, P.C., New York, NY (Eitan Alexander Ogen of counsel), for  
appellant.

Abrams, Fensterman, Fensterman, Eisman, Formato, Ferrara & Wolf LLP, Brooklyn,  
NY (Thomas Torto of counsel), for respondents.

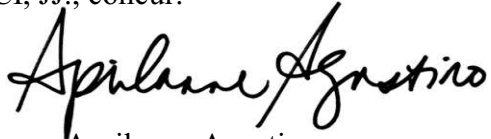
In an action to recover damages for personal injuries, the plaintiff appeals from an  
order of the Supreme Court, Kings County (Bernard J. Graham, J.), dated May 12, 2016. The order  
denied the plaintiff's motion for summary judgment on the issue of liability without prejudice to  
renew upon the completion of discovery.

ORDERED that the order is affirmed, with costs.

In a personal injury action, a party should generally be afforded a reasonable  
opportunity to conduct discovery prior to the determination of a motion for summary judgment (*see*  
CPLR 3212[f]; *Brea v Salvatore*, 130 AD3d 956). Here, the plaintiff moved for summary judgment  
on the issue of liability less than three weeks after the defendants filed their answer, and under the  
unique circumstances of this case, the defendants did not have an adequate opportunity to conduct  
discovery (*see Chander v Eagle Sanitation, Inc.*, 153 AD3d 658; *Okula v City of New York*, 147

AD3d 967, 968; *Brea v Salvatore*, 130 AD3d at 956-957). Accordingly, we will not disturb the Supreme Court's determination to deny the plaintiff's motion for summary judgment on the issue of liability without prejudice to renew upon the completion of discovery.

CHAMBERS, J.P., SGROI, BARROS and IANNACCI, JJ., concur.

ENTER:   
Aprilanne Agostino  
Clerk of the Court