

Kou`ajjan v Smith

2011 NY Slip Op 33678(U)

March 31, 2011

Supreme Court, New York County

Docket Number: 100673/2010

Judge: Milton A. Tingling

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SUPREME COURT OF THE STATE OF NEW YORK — NEW YORK COUNTY

PRESENT: Milton A. Tingling
Justice

PART 44

KOU LAIHIAN, AAPI

INDEX NO.

100673/2010

MOTION DATE

3-31-11

MOTION SEQ. NO.

001

MOTION CAL. NO.

SMITH, Tamara

The following papers, numbered 1 to _____ were read on this motion to/for _____

Notice of Motion/ Order to Show Cause — Affidavits — Exhibits ...

Answering Affidavits — Exhibits _____

Replying Affidavits _____

PAPERS NUMBERED

Cross-Motion: Yes No

Upon the foregoing papers, it is ordered that this motion

FILED

APR 04 2011

NEW YORK
COUNTY CLERK'S OFFICE

The Defendants move for an order pursuant to CPLR 3212, granting summary judgment in their favor on the issue of liability.

The alleged facts in this case are as follows. The plaintiff alleges that the Defendants child, Luna was being negligently supervised when Luna caused the suitcase to strike the back of Ms. Koulaiahian's leg causing her to fall and sustain injuries. Defendant Mr. Austin alleges that he was holding Luna's right hand while she was wheeling the suitcase with her left hand. Mr. Austin did not see the plaintiff being struck by the suitcase or fall down on the sidewalk.

The plaintiff sues for negligent supervision of a child.

The general rule in *LaTorre v. Spencer*, 90 N.Y.2d 576, 687 N.E.2d 1284, 665 N.Y.S2d 1

Dated: 3-31-11

J.S.C.

Check one: FINAL DISPOSITION NON-FINAL DISPOSITION

Check if appropriate: DO NOT POST REFERENCE

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE FOR THE FOLLOWING REASON(S):

