

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

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C/hu

_____AD3d_____

Submitted - October 20, 2008

PETER B. SKELOS, J.P.
DANIEL D. ANGIOLILLO
RUTH C. BALKIN
CHERYL E. CHAMBERS, JJ.

2007-04775
2007-07809

DECISION & ORDER

Joseph Karten, appellant, v Alvarez and Son
Transportation, Inc., et al., respondents.

(Index No. 20519/06)

Joseph Karten, Mamaroneck, N.Y., appellant pro se.

Alan I. Lamer, Elmsford, N.Y. (Fiedelman & McGaw, Jericho, N.Y. [Andrew Zajac],
of counsel), for respondents.

In an action to recover damages for injury to property, the plaintiff appeals, as limited by his brief, (1) from so much of an order of the Supreme Court, Westchester County (Smith, J.), dated April 20, 2007, as denied his cross motion for summary judgment on the issue of liability, and (2) from so much of an order of the same court dated July 26, 2007, as denied that branch of his motion which was for leave to renew the cross motion for summary judgment.

ORDERED that the orders are affirmed insofar as appealed from, with one bill of costs.

On January 12, 2006, the plaintiff's motor vehicle was involved in a rear-end collision with a truck operated by the defendant Francisco Del-Villar, on First Avenue in Manhattan. After the plaintiff commenced the present action, he cross-moved for summary judgment on the issue of liability. In support of his cross motion, the plaintiff failed to make a prima facie showing of entitlement to judgment as a matter of law by tendering sufficient evidence to demonstrate the absence of any triable issue of fact (*see Tutrani v County of Suffolk*, 10 NY3d 906, 908; *Johnson v*

November 12, 2008

Page 1.

KARTEN v ALVAREZ AND SON TRANSPORTATION, INC.

First Student, Inc., 54 AD3d 492; *Nichols v Turner*, 6 AD3d 1009, 1012). Furthermore, in support of that branch of his subsequent motion which was for leave to renew, the plaintiff failed to offer any new facts not offered on the prior motion (*see Worrell v Parkway Estates, LLC*, 43 AD3d 436, 437). Therefore, the Supreme Court properly denied both motions.

SKELOS, J.P., ANGIOLILLO, BALKIN and CHAMBERS, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer
Clerk of the Court