

2016 WL 516166
Supreme Court, Appellate Division, Second Department.
Supreme Court of the State of New York
Appellate Division: Second Judicial Department

Amber Giovenco, et al., appellants,
v.
Evelyn Abeshouse, et al., defendants, Lillian DeRosa, respondent.

2015-05295 (Index No. 2703/13)
|
February 10, 2016

Attorneys and Law Firms

Sacco & Fillas, LLP, Astoria, N.Y. (Albert R. Matuza, Jr., of counsel), for appellants.

Picciano & Scahill, P.C., Westbury, N.Y. (Francis J. Scahill and Andrea E. Ferrucci of counsel), for respondent.

WILLIAM F. MASTRO, J.P. JOHN M. LEVENTHAL LEONARD B. AUSTIN HECTOR D. LASALLE, JJ.

ARGUED—JANUARY 8, 2016

DECISION & ORDER

In an action to recover damages for personal injuries, etc., the plaintiffs appeal, as limited by their brief, from so much of an order of the Supreme Court, Nassau County (Galasso, J.), entered April 23, 2015, as granted that branch of the motion of the defendant Lillian DeRosa which was for summary judgment dismissing the complaint insofar as asserted against her.

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

The defendant Lillian DeRosa established her prima facie entitlement to judgment as a matter of law dismissing the complaint insofar as asserted against her by demonstrating that her vehicle never made contact with the plaintiff **Amber Giovenco** (see *Alvarez v. Prospect Hosp.*, 68 N.Y.2d 320, 324). In opposition, the plaintiffs failed to raise a triable issue of fact (see *id.* at 324). Accordingly, the Supreme Court properly granted that branch of DeRosa's motion which was for summary judgment dismissing the complaint insofar as asserted against her.

MASTRO, J.P., LEVENTHAL, AUSTIN and LASALLE, JJ., concur.

ENTER:

Aprilanne Agostino

Clerk of the Court

All Citations

--- N.Y.S.3d ----, 2016 WL 516166 (Mem), 2016 N.Y. Slip Op. 00930

