

**SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
SECOND JUDICIAL DEPARTMENT**

Barreca v. Monadnock Construction, Inc.

131 A.D.3d 659 (2d Dep't 2015) · No. 2014-00376 · Decided August 26, 2015

SUMMARY

The Appellate Division, Second Department, affirmed an order denying the plaintiff's motion to set aside a jury verdict in favor of the defendants in a personal injury action. The court held that defense counsel's summation comments were either fair comments on the evidence or isolated comments that did not deprive the plaintiff of a fair trial.

OPINION

PER CURIAM.

Barreca v Monadnock Constr., Inc. (2015 NY Slip Op 06649) Barreca v Monadnock Constr., Inc. 2015 NY Slip Op 06649 Decided on August 26, 2015 Appellate Division, Second Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This opinion is uncorrected and subject to revision before publication in the Official Reports. Decided on August 26, 2015 SUPREME COURT OF THE STATE OF NEW YORK Appellate Division, Second Judicial Department REINALDO E. RIVERA, J.P.

RUTH C. BALKIN ROBERT J. MILLER HECTOR D. LASALLE, JJ. 2014-00376 (Index No. 9376/10) [*1]Michael Barreca, appellant, vMonadnock Construction, Inc., et al., respondents. Massimo & Panetta, P.C., Mineola, N.Y. (Frank C. Panetta of counsel), for appellant. Hammill, O'Brien, Croutier, Dempsey, Pender & Koehler, P.C., Syosset, N.Y. (Anton Piotroski of counsel), for respondents.

DECISION & ORDER In an action to recover damages for personal injuries, the plaintiff appeals from an order of the Supreme Court, Kings County (Silber, J.), dated October 17, 2013, which denied his motion pursuant to CPLR 4404(a) to set aside a jury verdict in favor of the defendants on the issue of liability and for a new trial. **ORDERED** that the order is affirmed, with costs.

Contrary to the plaintiff's contentions, the defense counsel's comments during his summation were either fair comments on the evidence or were isolated comments that did not deprive the plaintiff of a fair trial (see generally *Jean-Louis v City of New York*, 86 AD3d 628, 629; *Alston v Sunharbor Manor, LLC*, 48 AD3d 600, 603; cf. *Boyd v Blessey*, 96 AD2d 816, 817).

RIVERA, J.P., BALKIN, MILLER and LASALLE, JJ., concur. ENTER: Aprilanne Agostino Clerk of the Court

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