

191 A.D.3d 724  
Supreme Court, Appellate Division, Second  
Department, New York.

Winston A. TOALA, appellant, et al.,  
plaintiff,  
v.  
EAN HOLDINGS, LLC, defendant,  
Taleek D. Withers, respondent.

2018–12200  
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Index No. 518793/16  
|  
Submitted—June 11, 2020  
|  
February 3, 2021

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#### Attorneys and Law Firms

Picciano & Scahill, P.C., Bethpage, N.Y. (Andrea E. Ferrucci of counsel), for appellant.

REINALDO E. RIVERA, J.P., LEONARD B. AUSTIN,  
ANGELA G. IANNACCI, LINDA CHRISTOPHER, JJ.

#### DECISION & ORDER

In an action to recover damages for personal injuries, the plaintiff/counterclaim defendant, Winston A. Toala, appeals from an order of the Supreme Court, Kings County (Wavny Toussaint, J.), dated September 19, 2018. The order, insofar as appealed from, denied that branch of the motion of the plaintiff/counterclaim defendant \*714 which was for leave to renew his motion for summary judgment dismissing the counterclaim asserted against him by the defendant/counterclaim plaintiff, Taleek D. Withers, which had been denied in an order of the same court dated June 22, 2017, and, in effect,...