

Acosta, P.J., Richter, Mazzarelli, Webber, Kern, JJ.

10140 Jose Bautista,  
Plaintiff-Respondent,

Index 21446/18E

-against-

Hach & Rose, LLP,  
Defendant-Appellant,

Hach Rose Schirripa & Cheverie LLP,  
et al.,  
Defendants.

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Wilson Elser Moskowitz Edelman & Dicker LLP, New York (Judy C. Selmecci of counsel), for appellant.

Massimo & Panetta, P.C., Mineola (Nicholas J. Massimo of counsel), for respondent.

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Order, Supreme Court, Bronx County (Lucindo Suarez, J.), entered October 26, 2018, which, to the extent appealed from as limited by the briefs, denied defendant Hach & Rose, LLP's (defendant) motion to dismiss plaintiff's cause of action for legal malpractice against it, unanimously affirmed, without costs.

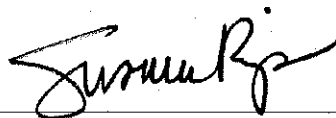
We decline to entertain defendant's arguments, which were improperly raised for the first time on appeal.

Were we to reach those arguments, we would nevertheless find that plaintiff's allegations supported an inference of proximate causation and the documentary evidence did not refute those

allegations (CPLR 3211[a][1], [7]; *Brooks v Lewin*, 21 AD3d 731, 734 [1st Dept 2005], *lv denied* 6 NY3d 713 [2006]; *cf. Somma v Dansker & Aspromonte Assoc.*, 44 AD3d 376, 377 [1st Dept 2007]; *Alden v Brindisi, Murad, Brindisi, Pearlman, Julian & Pertz* ["The People's Lawyer"], 91 AD3d 1311, 1311 [4th Dept 2012]).

THIS CONSTITUTES THE DECISION AND ORDER  
OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: OCTOBER 22, 2019



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