

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

D15536  
C/hu

\_\_\_\_\_AD3d\_\_\_\_\_

Submitted - April 18, 2007

ROBERT W. SCHMIDT, J.P.  
GABRIEL M. KRAUSMAN  
GLORIA GOLDSTEIN  
JOSEPH COVELLO  
DANIEL D. ANGIOLILLO, JJ.

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2006-08754

DECISION & ORDER

Irina Gordover, respondent, v Yekaterina  
Balandina, et al., defendants, Yelena Olekhnovich,  
et al., appellants.

(Index No. 32380/04)

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Irwen C. Abrams (Wilson, Elser, Moskowitz, Edelman & Dicker, LLP, White Plains,  
N.Y. [Joseph A.H. McGovern and John D. Morio] of counsel), for appellants.

Alpert & Kaufman, LLP, New York, N.Y. (Louis Badolato and Gary Solbin of  
counsel), for respondent.

In an action to recover damages for personal injuries, the defendants Yelena  
Olekhnovich and Sergey Olekhnovich appeal from an order of the Supreme Court, Kings County  
(Kramer, J.), dated August 17, 2006, which denied their motion for summary judgment dismissing  
the complaint insofar as asserted against them on the ground that the plaintiff did not sustain a serious  
injury within the meaning of Insurance Law § 5102(d).

ORDERED that the order is affirmed, with costs.

The defendants Yelena Olekhnovich and Sergey Olekhnovich, through the submission  
of the plaintiff's verified bill of particulars and the affirmed medical reports of their examining  
neurologist, examining orthopedic surgeon, and radiologist, made a prima facie showing that the  
plaintiff did not sustain a serious injury within the meaning of Insurance Law § 5102(d) as a result  
of the subject motor vehicle accident (*see Toure v Avis Rent A Car Sys.*, 98 NY2d 345; *Gaddy v*

June 12, 2007

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*Eyler*, 79 NY2d 955; *Kearse v New York City Tr. Auth.*, 16 AD3d 45; *Collins v Stone*, 8 AD3d 321).  
In opposition, the plaintiff raised a triable issue of fact.

SCHMIDT, J.P., KRAUSMAN, GOLDSTEIN, COVELLO and ANGIOLILLO, 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