

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

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Submitted - September 5, 2007

STEPHEN G. CRANE, J.P.
DAVID S. RITTER
STEVEN W. FISHER
JOSEPH COVELLO
THOMAS A. DICKERSON, JJ.

2006-09750

DECISION & ORDER

Ernest St. Rose, appellant, v Charles
McMorrow, respondent.

(Index No. 5367/03)

Harmon, Linder, & Rogowsky, New York, N.Y. (Mitchell Dranow of counsel), for
appellant.

Susan B. Owens, White Plains, N.Y. (Joseph M. Zecca of counsel), for respondent.

In an action to recover damages for personal injuries, the plaintiff appeals from an order of the Supreme Court, Rockland County (Garvey, J.), dated September 8, 2006, which denied that branch of his motion which was to vacate an order of the same court dated January 25, 2006, granting the defendant's unopposed motion for summary judgment dismissing the complaint on the ground that he did not sustain a serious injury within the meaning of Insurance Law § 5102 (d).

ORDERED that the order dated September 8, 2006, is affirmed, with costs.

In order to vacate the order entered upon his default in opposing the motion, the plaintiff was required to demonstrate both a reasonable excuse for his default and a meritorious opposition to the motion for summary judgment (*see Oyebola v Makuch*, 10 AD3d 600, 601;

September 25, 2007

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Itskovich v Lichenstadter, 2 AD3d 406, 407; *Sicari v Hung Yuen Wong*, 286 AD2d 489). The plaintiff failed to demonstrate a reasonable excuse for his default. Accordingly, the Supreme Court properly denied his motion.

CRANE, J.P., RITTER, FISHER, COVELLO and DICKERSON, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style with a large initial "J".

James Edward Pelzer
Clerk of the Court