

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

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Submitted - October 17, 2007

FRED T. SANTUCCI, J.P.
GLORIA GOLDSTEIN
MARK C. DILLON
DANIEL D. ANGIOLILLO, JJ.

2006-09667

DECISION & ORDER

Francisco Soto, appellant, v NYRAC, Inc., et al.,
respondents.

(Index No. 5951/02)

Mallilo & Grossman, Flushing, N.Y. (Francesco Pomara, Jr., of counsel), for
appellant.

Carfora, Klar, Gallo, Vitucci, Pinter & Cogan, New York, N.Y. (Yolanda L. Ayala
and Matthew J. Vitucci of counsel), for respondents.

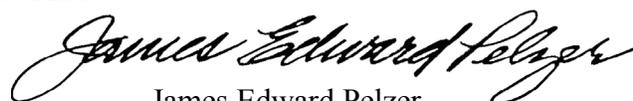
In an action to recover damages for personal injuries, the plaintiff appeals from an order of the Supreme Court, Queens County (Elliot, J.), dated January 27, 2006, which denied his motion for leave to renew his opposition to the defendants' prior motion for summary judgment dismissing the complaint on the ground that he did not sustain a serious injury within the meaning of Insurance Law § 5102(d), which had been granted in an order of the same court dated August 5, 2005.

ORDERED that the order is affirmed, with costs.

The Supreme Court providently exercised its discretion in denying the plaintiff's motion for leave to renew (*see* CPLR 2221[e]).

SANTUCCI, J.P., GOLDSTEIN, DILLON and ANGIOLILLO, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

October 30, 2007

SOTO v NYRAC, INC.