

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

D17387
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_____AD3d_____

Argued - November 15, 2007

A. GAIL PRUDENTI, P.J.
WILLIAM F. MASTRO
FRED T. SANTUCCI
ROBERT A. LIFSON, JJ.

2006-09161

DECISION & ORDER

Ester Bacchi, et al., appellants, v Christina Paris, et al.,
respondents.

(Index No. 2949/03)

Thomas A. Mason (Shaub, Ahmuty, Citrin & Spratt, LLP, Lake Success, N.Y.
[Christopher Simone and Robert M. Ortiz] of counsel), for appellants.

Cullen & Dykman, LLP, Brooklyn, N.Y. (Timothy J. Flanagan of counsel), for
respondents Christina Paris and Stacy A. Sanchez.

Baxter, Smith, Tassan & Shapiro, P.C., Hicksville, N.Y. (Robert C. Baxter, Sim R.
Shapiro, and Amy L. Schaefer of counsel), for respondents Joseph McKenna and
Patricia McKenna.

In an action to recover damages for personal injuries, etc., the plaintiffs appeal from
an order of the Supreme Court, Queens County (Schulman, J.), dated June 23, 2006, which granted
the separate motions of the defendants Joseph McKenna and Patricia McKenna and the defendants
Christina Paris and Stacy Sanchez for summary judgment dismissing the complaint insofar as asserted
against them on the ground that the plaintiff Ester Bacchi did not sustain a serious injury within the
meaning of Insurance Law § 5102(d).

ORDERED that the order is affirmed, with one bill of costs.

The defendants established a prima facie case that the plaintiff Ester Bacchi
(hereinafter the plaintiff) did not sustain a serious injury within the meaning of Insurance Law §

5102(d) as a result of the subject accident on August 16, 2002, through the submission of magnetic resonance imaging reports of the plaintiff's cervical and lumbar spines and left and right knees taken by the plaintiff's own treating physicians (*see Gaddy v Eyster*, 79 NY2d 955, 956-957). In opposition to the motions for summary judgment, the plaintiff failed to present admissible evidence sufficient to raise a triable issue of fact as to whether her injuries were causally related to the accident on August 16, 2002, rather than to an accident which occurred years earlier (*see McNeil v Dixon*, 9 AD3d 481, 482).

PRUDENTI, P.J., MASTRO, SANTUCCI and LIFSON, 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