

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

D19369
C/hu

_____AD3d_____

Submitted - April 23, 2008

STEVEN W. FISHER, J.P.
ANITA R. FLORIO
DANIEL D. ANGIOLILLO
THOMAS A. DICKERSON
ARIEL E. BELEN, JJ.

2007-06252

DECISION & ORDER

Carolyn P. McRae, appellant, v Asm Alauddin,
respondent.

(Index No. 15289/05)

Alan M. Greenberg, P.C., New York, N.Y. (Jeremy A. Hellman of counsel), for
appellant.

Cheven, Keely & Hatzis, New York, N.Y. (Mayu Miyashita of counsel), for
respondent.

In an action to recover damages for personal injuries, the plaintiff appeals from an order of the Supreme Court, Kings County (Balter, J.), dated May 21, 2007, which granted the defendant's motion for summary judgment dismissing the complaint on the ground that she did not sustain a serious injury within the meaning of Insurance Law § 5102(d).

ORDERED that the order is affirmed, with costs.

The defendant met his prima facie burden of showing that the plaintiff did not sustain a serious injury within the meaning of Insurance Law § 5102(d) as a result of the subject accident (*see Toure v Avis Rent A Car Sys.*, 98 NY2d 345; *Gaddy v Eycler*, 79 NY2d 955, 956-957; *Meyers v*

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Bobower Yeshiva Bnei Zion, 20 AD3d 456; *cf. Bozza v O'Neill*, 43 AD3d 1094, 1096; *DeFilippo v White*, 101 AD2d 801, 802-803). In opposition, the plaintiff failed to raise a triable issue of fact.

FISHER, J.P., FLORIO, ANGIOLILLO, DICKERSON and BELEN, 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