

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

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Submitted - October 15, 2008

PETER B. SKELOS, J.P.  
DAVID S. RITTER  
MARK C. DILLON  
EDWARD D. CARNI  
JOHN M. LEVENTHAL, JJ.

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2008-00627

DECISION & ORDER

Francine Lynch, plaintiff-respondent, v Rashid Iqbal, et al., appellants, Mohammad Talukder, et al., defendants-respondents.

(Index No. 10429/05)

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Baker, McEvoy, Morrissey & Moskovits, P.C., New York, N.Y. (Holly E. Peck of counsel), for appellants.

Friedman, Levy, Goldfarb & Weiner, P.C., New York, N.Y. (Ira H. Goldfarb and David J. Kresman of counsel), for plaintiff-respondent.

In an action to recover damages for personal injuries, the defendants Rashid Iqbal and Yakov Kaplan appeal from an order of the Supreme Court, Kings County (Ambrosio, J.), dated December 17, 2007, which denied their motion for summary judgment dismissing the complaint and all cross claims 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 reversed, on the law, with costs, and the motion of the appellants Rashid Iqbal and Yakov Kaplan for summary judgment dismissing the complaint and all cross claims insofar as asserted against them is granted.

In opposition to the appellants' prima facie establishment of entitlement to summary judgment, the plaintiff alleged that the two scars she sustained to her chin as a result of the subject accident constituted a significant disfigurement and, therefore, constituted a serious injury within the

meaning of Insurance Law § 5102(d). However, contrary to the plaintiff's contentions, a reasonable person viewing the color photographs of her chin in its altered state, which she submitted in opposition to the motion, would not regard the condition as unattractive, objectionable, or as the object of pity and scorn (*see Sirmans v Mannah*, 300 AD2d 465; *Loiseau v Maxwell*, 256 AD2d 450; *Edwards v DeHaven*, 155 AD2d 757). Thus, the appellants' motion should have been granted and the complaint and all cross claims dismissed insofar as asserted against them.

SKELOS, J.P., RITTER, DILLON, CARNI and LEVENTHAL, 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