

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

D21585
W/kmg

_____AD3d_____

Submitted - December 3, 2008

ROBERT A. SPOLZINO, J.P.
FRED T. SANTUCCI
HOWARD MILLER
THOMAS A. DICKERSON
RANDALL T. ENG, JJ.

2008-01959

DECISION & ORDER

Annaliese Guerrero, respondent, v Ilyas
Sadiq, et al., appellants, et al., defendants.

(Index No. 30130/05)

Baker, McEvoy, Morrissey & Moskovits, P.C., New York, N.Y. (Colin F. Morrissey of counsel), for appellants.

Michelstein & Associates, PLLC, New York, N.Y. (Richard A. Ashman of counsel), for respondent.

In an action to recover damages for personal injuries, the defendants Ilyas Sadiq and Nouras M. Deen appeal, as limited by their brief, from so much of an order of the Supreme Court, Kings County (Vaughan, J.), dated January 16, 2008, as denied that branch of their motion which was for summary judgment dismissing the claim to recover damages for injury to the plaintiff's right wrist 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 insofar as appealed from, with costs.

Although the defendants made a prima facie showing that the plaintiff did not sustain a serious injury to her right wrist 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), the affirmations of the plaintiff's treating orthopedist and the orthopedic surgeon who performed surgery on her right wrist were sufficient to raise a triable issue of fact as to whether she had

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sustained a serious injury to her right wrist that was causally related to the subject accident (*see e.g. Qurashi v Hittin*, 51 AD3d 652; *also Kuznetzov v Cuccia*, 8 AD3d 244; *Rahman v Brown*, 6 AD3d 518).

SPOLZINO, J.P., SANTUCCI, MILLER, DICKERSON and ENG, 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