

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

D27597
C/prt

_____AD3d_____

Submitted - April 26, 2010

JOSEPH COVELLO, J.P.
THOMAS A. DICKERSON
RANDALL T. ENG
LEONARD B. AUSTIN, JJ.

2009-09976

DECISION & ORDER

Josephine Zinna, also known as Josephine Mininni,
appellant-respondent, v Natural Stone Trading, Inc.,
et al., respondents-appellants.

(Index No. 17679/08)

Everett J. Petersson, P.C., Brooklyn, N.Y. (Michael A. Serpico of counsel), for
appellant-respondent.

Charles J. Siegel, New York, N.Y. (Alfred T. Lewyn of counsel), for respondents-
appellants.

In an action to recover damages for personal injuries, the plaintiff appeals from so
much of an order of the Supreme Court, Kings County (Schneier, J.), dated September 11, 2009, as
denied her motion for summary judgment on the issue of liability, and the defendants cross-appeal,
as limited by their brief, from so much of the same order as denied their cross motion, in effect, for
summary judgment dismissing the complaint.

ORDERED that the order is affirmed, without costs or disbursements.

On August 21, 2007, a multi-vehicle chain-reaction accident occurred on an off-ramp
of the Brooklyn-Queens Expressway. One of the vehicles involved in the accident was owned and
operated by the plaintiff. Another vehicle involved in the accident was owned by the defendant
Natural Stone Trading, Inc., and operated by the defendant Danny David. It is undisputed that
David's vehicle was behind the plaintiff's vehicle.

June 1, 2010

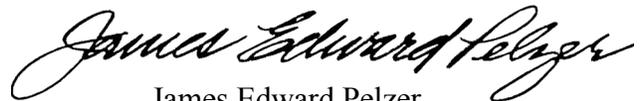
Page 1.

ZINNA, also known as MININNI v NATURAL STONE TRADING, INC.

On her motion for summary judgment on the issue of liability, the plaintiff established her prima facie entitlement to judgment as a matter of law by submitting an affidavit, in which she stated that while her vehicle was stopped at a red light, it was struck in the rear by David's vehicle (*see Oguzturk v General Elec. Co.*, 65 AD3d 1110; *Garner v Chevalier Transp. Corp.*, 58 AD3d 802). In opposition to the plaintiff's motion, and in support of their cross motion, in effect, for summary judgment dismissing the complaint, the defendants raised triable issues of fact. Accordingly, the Supreme Court properly denied the plaintiff's motion and the defendants' cross motion.

COVELLO, J.P., DICKERSON, ENG and AUSTIN, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court