

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

D28374  
W/prt

\_\_\_\_\_AD3d\_\_\_\_\_

Argued - June 11, 2010

JOSEPH COVELLO, J.P.  
DANIEL D. ANGIOLILLO  
JOHN M. LEVENTHAL  
SANDRA L. SGROI, JJ.

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2009-01665

DECISION & ORDER

Y&Y Eastern Acupuncture, P.C., as assignee of  
Victoria Cruz, respondent, v Motor Vehicle Accident  
Indemnification Corporation, appellant.

(Index No. 24837/06)

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Morris, Duffy, Alonso & Faley, New York, N.Y. (Anna J. Ervolina and Andrea M. Alonso of counsel), for appellant.

Gary Tsirelman, P.C., Brooklyn, N.Y. (Max Valerio and Darya Klein of counsel), for respondent.

In an action to recover no-fault medical payments pursuant to Insurance Law article 52, the defendant appeals, by permission, from an order of the Appellate Term of the Supreme Court for the Second, Eleventh, and Thirteen Judicial Districts, dated October 31, 2008, which affirmed an order of the Civil Court, Kings County (King, J.), entered September 11, 2007, denying that branch of its motion which was for summary judgment dismissing the complaint.

ORDERED that the order dated October 31, 2008, is affirmed, with costs.

For the reasons set forth in the opinion and order in a companion appeal (*see Englington Med., P.C. v Motor Veh. Acc. Indem. Corp.*, \_\_\_\_\_AD3d\_\_\_\_\_ [decided herewith]), the Appellate Term of the Supreme Court for the Second, Eleventh, and Thirteenth Judicial Districts properly affirmed the order of the Civil Court, Kings County, denying that branch

January 11, 2011

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Y&Y EASTERN ACUPUNCTURE, P.C., as assignee of CRUZ v  
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of the defendant's motion which was for summary judgment dismissing the complaint.

COVELLO, J.P., ANGIOLILLO, LEVENTHAL and SGROI, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "Matthew G. Kiernan". The signature is written in a cursive, slightly slanted style.

Matthew G. Kiernan  
Clerk of the Court