

Acosta, P.J., Richter, Manzanet-Daniels, Tom, Moulton, JJ.

8578 Sabrina Munoz,  
Plaintiff-Appellant,

Index 152701/15

-against-

Ricky R. Robinson, et al.,  
Defendants-Respondents.

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Molod Spitz & DeSantis, P.C., New York (Marcy Sonneborn of  
counsel), for appellant.

DeSena & Sweeney, LLP, Bohemia (Shawn P. O'Shaughnessy of  
counsel), for Rickey R. Robinson and Denise L. Robinson,  
respondents.

Bamundo, Zwal & Schermerhorn, LLP, New York (Edward W. Chen of  
counsel), for William Paulino, respondent.

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Order, Supreme Court, New York County (Paul A. Goetz, J.),  
entered on or about January 2, 2018, which, to the extent  
appealed from as limited by the briefs, granted defendants'  
motions for summary judgment dismissing the claim of serious  
injury to the left knee within the meaning of Insurance Law §  
5102(d), unanimously reversed, on the law, and the motions  
denied, without costs.

Defendants established prima facie that plaintiff did not  
suffer a serious injury to her left knee as a result of the  
subject accident through the affirmed reports of their experts,  
who examined plaintiff, documented normal range of motion, and

attributed plaintiff's complaints to a preexisting degenerative condition (see e.g. *Castro v DADS Natl. Enters., Inc.*, 165 AD3d 601 [1st Dept 2018]).

In opposition, plaintiff raised an issue of fact through the affirmed narrative report of her treating orthopedic surgeon, who documented limitations in plaintiff's range of motion, acknowledged plaintiff's preexisting degenerative condition, and concluded, based on a full review of the medical history, physical examination and observations during surgery, that the accident had severely aggravated plaintiff's condition, necessitating surgery for an acute meniscal tear (see *Lazzari v Qualcon Constr., LLC*, 162 AD3d 440, 441 [1st Dept 2018]; *Giap v Hathi Son Pham*, 159 AD3d 484, 486 [1st Dept 2018]; see also *Malloy v Matute*, 79 AD3d 584 [1st Dept 2010]).

THIS CONSTITUTES THE DECISION AND ORDER  
OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: MARCH 5, 2019



CLERK