

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

D12422  
Y/mv

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Submitted - September 13, 2006

THOMAS A. ADAMS, J.P.  
GABRIEL M. KRAUSMAN  
REINALDO E. RIVERA  
ROBERT A. LIFSON, JJ.

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2005-08477

DECISION & ORDER

Adrianna Malafronte, et al., appellants,  
v Ameer Ford, et al., respondents.

(Index No. 20311/01)

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Subin Associates, LLP (Pollack, Pollack, Isaac & De Cicco, New York, N.Y. [Brian J. Isaac and Kenneth J. Gorman] of counsel), for appellants.

Robin, Harris, King, Yuhas, Fodera & Richman, New York, N.Y. (Deborah F. Peters of counsel), for respondents.

In an action to recover damages for personal injuries, etc., the plaintiffs appeal, as limited by their brief, from so much of an order of the Supreme Court, Kings County (Schmidt, J.), dated July 11, 2005, as granted the defendants' motion for summary judgment dismissing the complaint on the ground that the plaintiffs did not sustain a serious injury within the meaning of Insurance Law § 5102(d) and, in effect, denied their cross motion for leave to amend their verified bill of particulars.

ORDERED that the order is affirmed insofar as appealed from, with costs.

The defendants made a prima facie showing that the plaintiffs did not sustain a serious injury 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 Eyler*, 79 NY2d 955). In opposition, the plaintiffs failed to raise a triable issue of fact as to whether they sustained a serious injury. Accordingly, the Supreme Court properly granted the defendants' motion for summary judgment dismissing the complaint on the ground that the plaintiffs did not sustain a serious injury within the meaning of Insurance Law § 5102(d).

November 8, 2006

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In light of the foregoing, we do not reach the plaintiffs' remaining contention.

ADAMS, J.P., KRAUSMAN, RIVERA and LIFSON, JJ., concur.

ENTER:

  
James Edward Pelzer  
Clerk of the Court