

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

D14863
G/gts

_____AD3d_____

Submitted - March 21, 2007

ROBERT W. SCHMIDT, J.P.
GABRIEL M. KRAUSMAN
GLORIA GOLDSTEIN
JOSEPH COVELLO
DANIEL D. ANGIOLILLO, JJ.

2006-07637

DECISION & ORDER

Edwin Cordero, respondent, v Ford Credit
Titling Trust Insurance Center, defendant,
Patricia Sammon, et al., appellants.

(Index No. 22681/04)

James P. Nunemaker, Jr., Uniondale, N.Y. (Linda Meisler of counsel), for appellants.

Silverstein & Stern, LLP (Pollack, Pollack, Isaac & De Cicco, New York, N.Y.
[Keith D. Silverstein and Brian J. Isaac] of counsel), for respondent.

In an action to recover damages for personal injuries, the defendants Patricia Sammon and Brian Sammon appeal from an order of the Supreme Court, Kings County (Schneier, J.), dated July 14, 2006, which denied their motion for summary judgment dismissing the complaint insofar as asserted against them on the ground that the plaintiff did not sustain a serious injury within the meaning of Insurance Law § 5102(d).

ORDERED that the order is affirmed, with costs.

The defendants Patricia Sammon and Brian Sammon made a prima facie showing that the plaintiff 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). However, in opposition to the motion, the plaintiff raised a triable issue of fact by submitting, inter alia, the affirmed report of a neurologist quantifying the decreased range of motion in his cervical and lumbar spines based upon a recent examination, and affirmed magnetic resonance

April 24, 2007

Page 1.

CORDERO v FORD CREDIT TITLING TRUST INSURANCE CENTER

imaging test reports finding multiple disc herniations and bulges (*see Santiago v Rodriguez*, _____ AD3d _____ [2d Dept, Mar. 13, 2007]; *Lim v Tiburzi*, 36 AD3d 671; *Gonzalez v Baik*, 36 AD3d 854; *Holley v Salsa, Inc.*, 35 AD3d 814).

SCHMIDT, J.P., KRAUSMAN, GOLDSTEIN, COVELLO and ANGIOLILLO, 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