

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

D14904
G/gts

_____AD3d_____

Submitted - March 21, 2007

REINALDO E. RIVERA, J.P.
ROBERT A. SPOLZINO
STEVEN W. FISHER
ROBERT A. LIFSON
THOMAS A. DICKERSON, JJ.

2006-10666

DECISION & ORDER

Natasha Williams, respondent,
v Gairy P. Broomes, appellant.

(Index No. 32171/04)

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

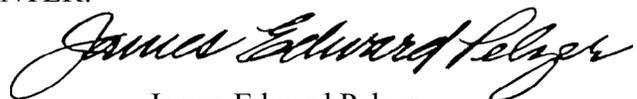
In an action to recover damages for personal injuries, the defendant appeals from an order of the Supreme Court, Kings County (Schack, J.), dated September 22, 2006, which denied his motion for summary judgment dismissing the complaint on the ground that the plaintiff did not sustain a serious injury within the meaning of Insurance Law § 5102(d).

ORDERED that the order is reversed, on the law, with costs, and the motion for summary judgment dismissing the complaint is granted.

The defendant established, prima facie, that the plaintiff did not sustain a serious injury as a result of the subject accident (*see* Insurance Law § 5102[d]; *Baez v Rahamatali*, 6 NY3d 868, 869; *Toure v Avis Rent A Car Sys.*, 98 NY2d 345; *Gaddy v Eyler*, 79 NY2d 955; *Cervino v Gladysz-Steliga*, 36 AD3d 744). The plaintiff, in turn, failed to raise an issue of fact (*see Earl v Chapple*, 37 AD3d 520; *Whitfield-Forbes v Pazmino*, 36 AD3d 901; *Elder v Stokes*, 35 AD3d 799; *Ramirez v Parache*, 31 AD3d 415, 416; *Ranzie v Abdul-Massih*, 28 AD3d 447, 448). Accordingly, the Supreme Court should have granted the defendant's motion.

RIVERA, J.P., SPOLZINO, FISHER, LIFSON and DICKERSON, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

May 1, 2007

WILLIAMS v BROOMES