

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

D17373
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Submitted - November 28, 2007

ROBERT A. SPOLZINO, J.P.
PETER B. SKELOS
ROBERT A. LIFSON
WILLIAM E. McCARTHY, JJ.

2006-10933

DECISION & ORDER

Angel Barroso, appellant, v Gilma S. Kristensen,
etc., et al., respondents.

(Index No. 3623/03)

Heriberto A. Cabrera, Brooklyn, N.Y. (Joseph M. Dash of counsel), for appellant.

Epstein, Rayhill & Frankini, Woodbury, N.Y. (Mona C. Haas of counsel), for
respondents.

In an action to recover damages for personal injuries, the plaintiff appeals from an order of the Supreme Court, Queens County (Hart, J.), dated September 7, 2006, which granted the defendants' motion for summary judgment dismissing the complaint on the ground that he did not sustain a serious injury within the meaning of Insurance Law § 5102(d).

ORDERED that the order is affirmed, with costs.

The defendants met their prima facie burden by establishing 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, 956-957). In opposition, the plaintiff failed to raise a triable issue of fact. Accordingly, the Supreme Court correctly granted the defendants' motion for summary judgment dismissing the complaint.

SPOLZINO, J.P., SKELOS, LIFSON and McCARTHY, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

December 18, 2007

BARROSO v KRISTENSEN