

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

D17374
W/cb

_____AD3d_____

Submitted - November 28, 2007

WILLIAM F. MASTRO, J.P.
FRED T. SANTUCCI
MARK C. DILLON
DANIEL D. ANGIOLILLO, JJ.

2006-10030

DECISION & ORDER

Sarahi Grande, etc., et al., appellants, v Romero
Fernandez, respondent.

(Index No. 22847/03)

Peña & Kahn, PLLC, Bronx, N.Y. (Claire M. Garcia of counsel), for appellants.

Baker, McEvoy, Morrissey & Moskovits, P.C., New York, N.Y. (Stacy R. Seldin of
counsel), for respondent.

In an action to recover damages for personal injuries, etc., the plaintiffs appeal from an order of the Supreme Court, Queens County (Nelson, J.), entered September 29, 2006, which granted the defendant's motion for summary judgment dismissing the complaint on the ground that the plaintiff Sarahi Grande 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 of showing that the plaintiff Sarahi Grande 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 Eylar*, 79 NY2d 955). In opposition, the plaintiffs failed to raise a triable issue of fact.

MASTRO, J.P., SANTUCCI, DILLON and ANGIOLILLO, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

December 18, 2007

GRANDE v FERNANDEZ