

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

D18213
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_____AD3d_____

Submitted - January 30, 2008

REINALDO E. RIVERA, J.P.
ROBERT A. LIFSON
DAVID S. RITTER
EDWARD D. CARNI, JJ.

2007-02556

DECISION & ORDER

Louis Robinson, et al., appellants,
v Jason Vitek, respondent.

(Index No. 5689/05)

Douglas R. Dollinger, Newburgh, N.Y., for appellants.

McCabe & Mack LLP, Poughkeepsie, N.Y. (Kimberly Hunt Lee of counsel), for
respondent.

In an action to recover damages for personal injuries, etc., the plaintiffs appeal from an order of the Supreme Court, Orange County (McGuirk, J.), entered January 22, 2007, which granted the defendant's motion for summary judgment dismissing the complaint on the ground that the plaintiff Louis Robinson did not sustain a serious injury within the meaning of Insurance Law § 5102(d).

ORDERED that the order is affirmed, with costs.

The defendant made a prima facie showing that the plaintiff Louis Robinson 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). The plaintiffs' opposition papers were insufficient to raise a triable issue of fact.

RIVERA, J.P., LIFSON, RITTER and CARNI, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court

February 26, 2008

ROBINSON v VITEK