

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

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Argued - April 11, 2008

WILLIAM F. MASTRO, J.P.  
PETER B. SKELOS  
ROBERT A. LIFSON  
JOHN M. LEVENTHAL, JJ.

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2007-06919

DECISION & ORDER

William Sanderson, respondent, v  
Lonero Transit, Inc., et al., appellants.

(Index No. 19645/05)

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Schnader Harrison Segal & Lewis, LLP, New York, N.Y. (Bruce M. Strikowsky, Carl J. Schaerf, and Erin Cowan of counsel), for appellants.

The Jacob D. Fuchsberg Law Firm, LLP, New York, N.Y. (Andrew S. Buzin of counsel), for respondent.

In an action to recover damages for personal injuries, the defendants appeal from an order of the Supreme Court, Kings County (Schmidt, J.), dated May 15, 2007, which denied their 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 affirmed, with costs.

The defendants met their prima facie burden of 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 Eycler*, 79 NY2d 955, 956-957). In opposition, however, the plaintiff raised a triable issue of fact.

MASTRO, J.P., SKELOS, LIFSON and LEVENTHAL, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court

May 13, 2008

SANDERSON v LONERO TRANSIT, INC.