

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

D21546
O/prt

_____AD3d_____

Submitted - October 29, 2008

ROBERT A. SPOLZINO, J.P.
FRED T. SANTUCCI
HOWARD MILLER
THOMAS A. DICKERSON
RANDALL T. ENG, JJ.

2008-01737

DECISION & ORDER

Jennifer Feliciano, respondent, v
Mohammad Malik, et al., appellants,
et al., defendants.

(Index No. 16274/06)

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

Hecht, Kleeger, Pintel & Damashek, New York, N.Y. (Ephrem Wertenteil of counsel), for respondent.

In an action to recover damages for personal injuries, the defendants Mohammad Malik and Osman Jami appeal from an order of the Supreme Court, Kings County (Jacobson, J.), dated January 14, 2008, which denied their motion for summary judgment dismissing the complaint insofar as asserted against them 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 Supreme Court properly found that there are triable issues of fact requiring the denial of the appellants' motion for summary judgment (*see* CPLR 3212).

SPOLZINO, J.P., SANTUCCI, MILLER, DICKERSON and ENG, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court

December 23, 2008

FELICIANO v MALIK