

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

D24250  
T/kmg

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Submitted - June 10, 2009

ROBERT A. SPOLZINO, J.P.  
FRED T. SANTUCCI  
DANIEL D. ANGIOLILLO  
JOHN M. LEVENTHAL  
PLUMMER E. LOTT, JJ.

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2008-11598

DECISION & ORDER

Katja Ciprijan, respondent, v Gilbert Stone,  
et al., appellants.

(Index No. 3008/07)

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Kim & Patterson, P.C., Bayside, N.Y. (Jerome D. Patterson of counsel), for appellants.

H. Bruce Fischer, New York, N.Y., for respondent.

In an action, inter alia, to recover damages for personal injuries, the defendants appeal from an order of the Supreme Court, Queens County (Grays, J.), dated September 25, 2008, which, sua sponte, directed them to submit to the court a copy of the bill of particulars in connection with 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), and the plaintiff's cross motion for summary judgment on the issue of liability.

ORDERED that the appeal is dismissed, with costs to the respondent.

The appeal must be dismissed, as no appeal lies as of right from an order which does not decide a motion made on notice (*see* CPLR 5701[a][2]), and we decline to grant leave to appeal.

SPOLZINO, J.P., SANTUCCI, ANGIOLILLO, LEVENTHAL and LOTT, JJ., concur.

ENTER:

  
James Edward Pelzer

August 25, 2009

CIPRIJAN v STONE

Clerk of the Court

August 25, 2009

CIPRIJAN v STONE