

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

D27661
Y/ct

_____AD3d_____

Submitted - February 24, 2010

REINALDO E. RIVERA, J.P.
ANITA R. FLORIO
THOMAS A. DICKERSON
ARIEL E. BELEN
SHERI S. ROMAN, JJ.

2009-08324

DECISION & ORDER

George Hrissikos, respondent, v
Monsoor Mian, et al., appellants.

(Index No. 11660/07)

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

Ebanks & Sattler, LLP, New York, N.Y. (Matthew B. Waller 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 (Martin, J.), dated June 23, 2009, 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, without costs or disbursement.

The defendants satisfied 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, 352; *Gaddy v Eyler*, 79 NY2d 955, 956-957; *Richards v Tyson*, 64 AD3d 760, 761; *Berson v Rosada Cab Corp.*, 62 AD3d 636, 637; *Byrd v J.R.R. Limo*, 61 AD3d 801, 802). However, in opposition, the plaintiff raised a triable issue of fact.

Accordingly, the Supreme Court correctly denied the defendants' motion for summary judgment dismissing the complaint.

RIVERA, J.P., FLORIO, DICKERSON, BELEN and ROMAN, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer
Clerk of the Court