

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

D28391
H/kmg

_____AD3d_____

Submitted - September 8, 2010

REINALDO E. RIVERA, J.P.
JOSEPH COVELLO
RANDALL T. ENG
JOHN M. LEVENTHAL
LEONARD B. AUSTIN, JJ.

2009-09148

DECISION & ORDER

Aaron Bowen, appellant, v Livius T. Sangeap,
et al., respondents.

(Index No. 31594/07)

Mallilo & Grossman, Flushing, N.Y. (Francesco Pomara, Jr., of counsel), for appellant.

Mendolia & Stenz, Westbury, N.Y. (Tracy Morgan of counsel), for respondents.

In an action to recover damages for personal injuries, the plaintiff appeals from an order of the Supreme Court, Queens County (Cullen, J.), entered August 24, 2009, which granted the defendants' motion for summary judgment dismissing the complaint on the ground that he 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 granted the defendants' motion for summary judgment dismissing the complaint. The defendants met their prima facie burden by 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 Eyler*, 79 NY2d 955, 956-957). In opposition, the plaintiff failed to raise a triable issue of fact (*see generally Alvarez v*

September 21, 2010

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Prospect Hosp., 68 NY2d 320, 324).

RIVERA, J.P., COVELLO, ENG, LEVENTHAL and AUSTIN, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court