

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

D33003  
G/kmb

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Submitted - November 9, 2011

MARK C. DILLON, J.P.  
THOMAS A. DICKERSON  
JOHN M. LEVENTHAL  
LEONARD B. AUSTIN  
ROBERT J. MILLER, JJ.

2010-07933

DECISION & ORDER

Sangela Foster, appellant, v Karen Gayle,  
et al., respondents.

(Index No. 18508/08)

Harold Solomon, Rockville Centre, N.Y. (Bernard G. Chambers of counsel), for appellant.

Richard T. Lau, Jericho, N.Y. (Gene W. Wiggins of counsel), for respondents Margaret F. Gajda and Stanley Gajda.

In an action to recover damages for personal injuries, the plaintiff appeals from an order of the Supreme Court, Nassau County (Marber, J.), entered July 7, 2010, which granted the motion of the defendants Margaret F. Gajda and Stanley Gajda, and the separate motion of the defendant Karen Gayle, for summary judgment dismissing the complaint insofar as asserted against each of them on the ground that she did not sustain a serious injury within the meaning of Insurance Law § 5102(d).

ORDERED that the order is affirmed, with one bill of costs payable to the defendants Margaret F. Gajda and Stanley Gajda.

The defendants met their respective prima facie burdens 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 Eyles*, 79 NY2d 955, 956-957). The plaintiff alleged, inter alia, that as a result of the subject accident, the cervical and

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lumbosacral regions of her spine, and shoulders, sustained certain injuries. However, the defendants provided competent medical evidence establishing, among other things, that those alleged injuries did not constitute serious injuries within the meaning of Insurance Law § 5102(d) (*see Rodriguez v Huerfano*, 46 AD3d 794, 795).

In opposition, the plaintiff failed to raise a triable issue of fact (*see Jackson v Colvert*, 24 AD3d 420, 420-421; *Lentini v Melina*, 287 AD2d 550). Accordingly, the Supreme Court properly granted the defendants' separate motions for summary judgment dismissing the complaint insofar as asserted against each of them.

DILLON, J.P., DICKERSON, LEVENTHAL, AUSTIN and MILLER, JJ., concur.

ENTER:

  
Matthew G. Kiernan  
Clerk of the Court