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

D33089
H/mv

_____AD3d_____ Submitted - November 14, 2011

PETER B. SKELOS, J.P.
L. PRISCILLA HALL
PLUMMER E. LOTT
JEFFREY A. COHEN, JJ.

2010-07768 DECISION & ORDER

Robert Robinson, appellant, v Brandon Cameron, et al., defendants, Jacek Kochanowski, et al., respondents.

(Index No. 18996/08)

Herbert G. Lindenbaum, PLLC, New York, N.Y., for appellant.

Wilson Elser Moskowitz Edelman & Dicker LLP, White Plains, N.Y. (Stuart A. Miller and Brian J. Matthews of counsel), for respondents.

Picciano & Scahill, P.C., Westbury, N.Y. (Francis J. Scahill and Andrea E. Ferrucci of counsel), for defendant Brandon Cameron.

In an action to recover damages for personal injuries, the plaintiff appeals, as limited by his brief, from so much of an order of the Supreme Court, Kings County (R. Miller, J.), dated June 29, 2010, as granted that branch of the motion of the defendants Jacek Kochanowski and Page Taxi Corp. which was for summary judgment dismissing the complaint insofar as asserted against them 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 insofar as appealed from, with costs payable to the respondents.

The Supreme Court correctly determined that the evidence submitted in support of the motion of the defendants Jacek Kochanowski and Page Taxi Corp. (hereinafter together the defendants) was sufficient to meet their prima facie burden of showing that the plaintiff, who

allegedly sustained injuries to the lumbar and cervical regions of his spine and both shoulders as a result of the accident, did not sustain a serious injury within the meaning of Insurance Law § 5102(d) as a result of the 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.

Accordingly, the Supreme Court correctly granted that branch of the defendants' motion which was for summary judgment dismissing the complaint insofar as asserted against them.

In light of our determination, the defendants' remaining contention has been rendered academic.

SKELOS, J.P., HALL, LOTT and COHEN, JJ., concur.

ENTER:

Aprilanne Agostino
Clerk of the Court