

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

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Submitted - February 1, 2012

PETER B. SKELOS, J.P.
THOMAS A. DICKERSON
L. PRISCILLA HALL
SHERI S. ROMAN
JEFFREY A. COHEN, JJ.

2011-07737

DECISION & ORDER

Nancy Hall, et al., respondents, v Seth C. Hecht,
et al., appellants.

(Index No. 10216/09)

Richard T. Lau, Jericho, N.Y. (Keith E. Ford of counsel), for appellants.

In an action to recover damages for personal injuries, etc., the defendants appeal from an order of the Supreme Court, Suffolk County (Tanenbaum, J.), dated June 13, 2011, which denied their motion for summary judgment dismissing the complaint on the ground that the plaintiff Nancy Hall did not sustain a serious injury within the meaning of Insurance Law § 5102(d).

ORDERED that the order is reversed, on the law, with costs, and the defendants' motion for summary judgment dismissing the complaint is granted.

The defendants met their prima facie burden of establishing that the plaintiff Nancy Hall (hereinafter the injured 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). The plaintiffs alleged, inter alia, that as a result of the subject accident, the injured plaintiff's left shoulder sustained certain injuries. The defendants submitted competent medical evidence establishing, prima facie, that those alleged injuries did not constitute a serious injury within the meaning of Insurance Law § 5102(d) (*see Staff v Yshua*, 59 AD3d 614), and, in any event, were not caused by the subject accident (*see Jilani v Palmer*, 83 AD3d 786, 787).

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In opposition, the plaintiffs failed to provide a reasonable explanation for a cessation of the injured plaintiff's medical treatment (*see Pommells v Perez*, 4 NY3d 566, 574; *Pou v E&S Wholesale Meats, Inc.*, 68 AD3d 446, 447), and failed to raise a triable issue of fact. Accordingly, the Supreme Court should have granted the defendants' motion for summary judgment dismissing the complaint.

SKELOS, J.P., DICKERSON, HALL, ROMAN and COHEN, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court