

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

D34170
C/ct

_____AD3d_____

Submitted - February 15, 2012

REINALDO E. RIVERA, J.P.
RANDALL T. ENG
CHERYL E. CHAMBERS
SANDRA L. SGROI
ROBERT J. MILLER, JJ.

2011-02724

DECISION & ORDER

Hoon Choi, appellant, v Natasha Duchatellier,
respondent.

(Index No. 7864/09)

Sim & Park, LLP, New York, N.Y. (Marc Andrew Williams of counsel), for
appellant.

Russo, Apoznanski & Tambasco, Westbury, N.Y. (Susan J. Mitola of counsel), for
respondent.

In an action to recover damages for personal injuries, the plaintiff appeals from an order of the Supreme Court, Nassau County (K. Murphy, J.), entered February 10, 2011, which granted the defendant's 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 defendant met her 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; *Gaddy v Eyler*, 79 NY2d 955, 956-957). The plaintiff alleged, inter alia, that as a result of the subject accident, he sustained certain injuries to his left knee. The defendant submitted evidence establishing, prima facie, that the alleged injuries to the knee did not constitute a serious injury within the meaning of Insurance Law § 5102(d) (*see Staff v Yshua*, 59 AD3d 614).

March 6, 2012

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In opposition, the plaintiff failed to raise a triable issue of fact. Accordingly, the Supreme Court properly granted the defendant's motion for summary judgment dismissing the complaint.

RIVERA, J.P., ENG, CHAMBERS, SGROI and MILLER, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "Aprilanne Agostino". The signature is written in a cursive, flowing style.

Aprilanne Agostino
Clerk of the Court