

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

D34871  
W/prt

\_\_\_\_\_AD3d\_\_\_\_\_

Submitted - April 11, 2012

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

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2011-04848

DECISION & ORDER

Antoni George Gordon, appellant, v  
James T. Blaha, respondent.

(Index No. 2905/09)

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Mikhail Ilyaich & Associates, P.C., Rosedale, N.Y. (Michael A. Stea of counsel), for  
appellant.

Richard T. Lau, Jericho, N.Y. (Kathleen E. Fioretti of counsel), for respondent.

In an action to recover damages for personal injuries, the plaintiff appeals from an order of the Supreme Court, Queens County (Lane, J.), entered March 30, 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) as a result of the subject accident.

ORDERED that the order is affirmed, with costs.

The defendant met his 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 Eycler*, 79 NY2d 955, 956-957). The defendant provided competent medical evidence establishing, prima facie, that the alleged injuries to the lumbosacral region of the plaintiff's spine did not constitute a serious injury 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. Accordingly, the

May 8, 2012

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Supreme Court properly granted the defendant's motion for summary judgment dismissing the complaint.

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

ENTER:

  
Aprilanne Agostino  
Clerk of the Court