

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

D35501  
C/kmb

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

Submitted - June 6, 2012

MARK C. DILLON, J.P.  
RUTH C. BALKIN  
ARIEL E. BELEN  
LEONARD B. AUSTIN, JJ.

2011-10285

DECISION & ORDER

Harry Jenson, respondent, v Catherine H. Brooke,  
et al., appellants.

(Index No. 25041/08)

Richard T. Lau, Jericho, N.Y. (Linda Meisler of counsel), for appellants.

Terence M. Quinn, St. James, N.Y., for respondent.

In an action to recover damages for personal injuries, the defendants appeal from an order of the Supreme Court, Suffolk County (Tanenbaum, J.), dated September 27, 2011, which denied their motion for summary judgment dismissing the complaint on the ground that the plaintiff 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 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 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 defendants submitted evidence establishing, prima facie, that none of the alleged injuries to the cervical and lumbar regions of the plaintiff's spine constituted 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

July 5, 2012

Page 1.

JENSON v BROOKE

Supreme Court should have granted the defendants' motion for summary judgment dismissing the complaint.

DILLON, J.P., BALKIN, BELEN and AUSTIN, JJ., concur.

ENTER:

  
Aprilanne Agostino  
Clerk of the Court