

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

D36257  
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Submitted - October 3, 2012

DANIEL D. ANGIOLILLO, J.P.  
RUTH C. BALKIN  
LEONARD B. AUSTIN  
ROBERT J. MILLER, JJ.

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2012-03644

DECISION & ORDER

Jessica Robinson, respondent, v Ticara Lawrence,  
et al., appellants.

(Index No. 10208/09)

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DeSena & Sweeney, LLP, Hauppauge, N.Y. (Shawn P. O'Shaughnessy of counsel),  
for appellants.

Falk & Klebanoff, P.C., West Hempstead, N.Y. (Victor A. Carr and Jeffrey P. Falk  
of counsel), for respondent.

In an action, inter alia, to recover damages for personal injuries, the defendants appeal from an order of the Supreme Court, Queens County (Taylor, J.), entered March 19, 2012, 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 affirmed, with costs.

The defendants failed to meet 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 failed to adequately address the plaintiff's claim, set forth in her bill of particulars, that as a result of the subject accident, she sustained certain injuries to her right knee (*see Rahman v Sarpaz*, 62 AD3d 979, 980; *Joseph v Hampton*, 48 AD3d 638, 638-639).

Accordingly, the Supreme Court properly denied the defendants' motion for summary

October 24, 2012

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judgment dismissing the complaint, regardless of the sufficiency of the plaintiff's opposition papers (see *Rahman v Sarpaz*, 62 AD3d at 980; *Joseph v Hampton*, 48 AD3d at 639).

ANGIOLILLO, J.P., BALKIN, AUSTIN and MILLER, JJ., concur.

ENTER:

  
Aprilanne Agostino  
Clerk of the Court