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This memorandum is uncorrected and subject to revision before
publication in the New York Reports.

No. 79 SSM 3
Carolyn Charley,
Appellant,
v.
Margaret E. Goss, et al.,
Respondents.

Submitted by Thomas B. Grunfeld, for appellant.
Submitted by Alison M. K. Lee, for respondent.

MEMORANDUM:

The order of the Appellate Division should be affirmed
with costs.

Defendants Howard Conroy and Margaret Goss presented
prima facie evidence, including plaintiff's deposition testimony
and medical records, that plaintiff did not suffer a serious

injury within the meaning of Insurance Law § 5102 (d) (see Toure v Avis Rent A Car Sys., 98 NY2d 345 [2002]). In opposition, plaintiff failed to raise a triable issue of fact.

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On review of submissions pursuant to section 500.11 of the Rules, order affirmed, with costs, in a memorandum. Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

Decided February 24, 2009