

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. ARLENE P. BLUTH
Justice

PART 22

Index Number : 156227/2013
PIERRE, ANTOINE N.
VS.
DIAWARA, SAMBA
SEQUENCE NUMBER : 001
SUMMARY JUDGMENT

INDEX NO.
MOTION DATE
MOTION SEQ. NO.

The following papers, numbered 1 to 3, were read on this motion to/for SJ on Liab Serious Injury

Notice of Motion/Order to Show Cause — Affidavits — Exhibits No(s) 1
Answering Affidavits — Exhibits No(s) 2
Replying Affidavits No(s) 3

Upon the foregoing papers, it is ordered that this motion is Granted. Defendant solely liable for accident & plaintiff had serious injury from accident

In this case, plaintiff was standing on the sidewalk waiting for his car to come out of the car wash when defendant lost control of his car and hit plaintiff while plaintiff was on the sidewalk. Defendant is solely liable for the accident.

One of the injuries plaintiff suffered was a broken ankle, a serious injury. This is proven by Dr. Dassa's affirmed reports when he read the X-rays and treated plaintiff for, among other things, a broken ankle.

Defendant opposes with an affirmed IME report by Dr. Westerband. He did not review X-rays and did not disagree that plaintiff suffered a broken ankle in the accident. Rather, with no support whatsoever, he concludes "status post questionable right ankle fracture. Maybe if he looked at an X-ray he wouldn't have a question NO issue of fact was raised. Summary Judgment

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE FOR THE FOLLOWING REASON(S):

- 1. CHECK ONE: CASE DISPOSED on Serious Injury and liability NON-FINAL DISPOSITION
2. CHECK AS APPROPRIATE: MOTION IS: GRANTED DENIED GRANTED IN PART OTHER
3. CHECK IF APPROPRIATE: SETTLE ORDER SUBMIT ORDER DO NOT POST FIDUCIARY APPOINTMENT REFERENCE

MAR 12 2015

HON. ARLENE P. BLUTH