

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

D14439  
W/gts

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

Argued - February 20, 2007

HOWARD MILLER, J.P.  
ROBERT A. SPOLZINO  
DAVID S. RITTER  
MARK C. DILLON, JJ.

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2006-00828

DECISION & ORDER

Jacinto Tomas Quezada, plaintiff-respondent, v  
Hugo Antonio Aquino, et al., defendants-respondents,  
Meagan A. Dixon, et al., appellants.  
(Action No. 1)

Carlos Aquino, plaintiff-respondent, v  
Hugo Antonio Aquino, et al., defendants-respondents,  
Meagan A. Dixon, et al., appellants.  
(Action No. 2)

Hugo Antonio Aquino, plaintiff-respondent, v  
J.F. Capellan-DeLeon, et al., defendants-respondents,  
Meagan A. Dixon, et al., appellants.  
(Action No. 3)

Carmen Capellan, etc., et al., plaintiffs-respondents, v  
Juan Francisco Capellan-DeLeon, et al., defendants-  
respondents, Eleanor Dixon, et al., appellants.  
(Action No. 4)

Robert Bergman, Jr., etc., plaintiff, v  
Hugo Antonio Aquino, et al., defendants.  
(Action No. 5)

(Index Nos. 3246/03, 7443/03, 6889/03, 0810/04, 2747/04)

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CAPELLAN v CAPELLAN-DeLEON  
BERGMAN v AQUINO

Alan B. Brill, P.C., Suffern, N.Y. (Donna M. Brautigam of counsel), for appellants.

Wilson, Bave, Conboy, Cozza & Couzens, P.C., White Plains, N.Y. (Erin Cola of counsel), for defendants-respondents J.F. Capellan-DeLeon, a/k/a Juan Francisco Cappellan-DeLeon, and Karina M. Capellan in Action Nos. 1, 2, 3, and 4.

Burke, Miele & Golden, LLP, Suffern, N.Y. (Phyllis A. Ingram, Robert M. Miele, Stephen B. Lowe, and Kevin Concagh of counsel), for plaintiff-respondent Carlos Aquino in Action No. 2.

In five related actions, inter alia, to recover damages for personal injuries, etc., Meagan A. Dixon and Eleanor M. Dixon, defendants in Action Nos. 1, 2, 3, and 4, appeal from an order of the Supreme Court, Rockland County (Garvey, J.), dated December 6, 2005, which denied their motion for summary judgment dismissing the complaints and all cross claims insofar as asserted against them in those actions.

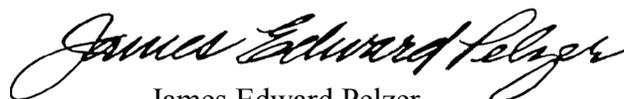
ORDERED that the order is affirmed, with costs.

“The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the highway” (Vehicle and Traffic Law § 1129[a]; *see Carhuayano v J&R Hacking*, 28 AD3d 413; *David v New York City Bd. of Educ.*, 19 AD3d 639). At the same time, the lead vehicle has a duty “not to stop suddenly or slow down without proper signaling so as to avoid a collision” (*Purcell v Axelsen*, 286 AD2d 379, 380; *see Carhuayano v J&R Hacking, supra*).

Meagan A. Dixon, who operated the lead vehicle in a multi-vehicle collision, and Eleanor M. Dixon, who owned that vehicle, submitted evidence of a rear-end collision sufficient to establish their entitlement to judgment as a matter of law (*see Neidereger v Misuraca*, 27 AD3d 537; *Rainford v Sung S. Han*, 18 AD3d 638; *Malone v Morillo*, 6 AD3d 324). However, the papers submitted in opposition to the motion were sufficient to raise a triable issue of fact as to whether Meagan A. Dixon contributed to the accident by making a sudden and unexplained stop (*see Taveras v Amir*, 24 AD3d 655; *Gaeta v Carter*, 6 AD3d 576; *Chepel v Meyers*, 306 AD2D 235).

MILLER, J.P., SPOLZINO, RITTER and DILLON, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court

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