

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

D16056  
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Argued - May 29, 2007

ROBERT W. SCHMIDT, J.P.  
FRED T. SANTUCCI  
PETER B. SKELOS  
RUTH C. BALKIN, JJ.

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2006-04388

DECISION & ORDER

Gale M. Williams, appellant, v Harbor Freight  
Transport Co., et al., respondents.

(Index No. 14023/05)

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Daniel P. Buttafuoco & Associates, PLLC, Woodbury, N.Y. (Ellen Buchholz of  
counsel), for appellant.

Paganini, Herling, Cioci & Cusumano, Lake Success, N.Y. (Edward W. Lebeaux of  
counsel), for respondents.

In an action to recover damages for personal injuries, the plaintiff appeals from an  
order of the Supreme Court, Queens County (O'Donoghue, J.), dated March 2, 2006, which denied  
her motion for summary judgment on the issue of liability.

ORDERED that the order is affirmed, with costs.

Generally, a rear-end collision with a stopped vehicle creates a prima facie case of  
negligence with respect to the operator of the moving vehicle and imposes a duty on the operator of  
the moving vehicle to rebut the inference of negligence by providing a non-negligent explanation for  
the collision (*see Gregson v Terry*, 35 AD3d 358; *Carhuayano v J&R Hacking*, 28 AD3d 413). In  
response to the plaintiff's demonstration of her entitlement to judgment as a matter of law, the  
defendants submitted evidence sufficient to raise a triable issue of fact as to whether the defendant  
driver's vehicle came in contact with the plaintiff's vehicle (*see Alvarez v Prospect Hosp.*, 68 NY2d  
320).

SCHMIDT, J.P., SANTUCCI, SKELOS and BALKIN, JJ., concur.

ENTER:

  
James Edward Pelzer

September 11, 2007

WILLIAMS v HARBOR FREIGHT TRANSPORT CO.

Clerk of the Court

September 11, 2007

WILLIAMS v HARBOR FREIGHT TRANSPORT CO.