

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

D21694  
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Argued - November 24, 2008

REINALDO E. RIVERA, J.P.  
DANIEL D. ANGIOLILLO  
RANDALL T. ENG  
ARIEL E. BELEN, JJ.

2007-08847

DECISION & ORDER

Silvia Moreno, appellant, v Luz Dary Gomez,  
respondent, et al., defendants.

(Index No. 24522/05)

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Jay H. Tanenbaum, New York, N.Y. (Laurence S. Warshaw of counsel), for  
appellant.

Mendolia & Stenz, Westbury, N.Y. (Tracy Morgan of counsel), for respondent.

In an action to recover damages for personal injuries, the plaintiff appeals, as limited by her brief, from so much of an order of the Supreme Court, Queens County (Nelson, J.), entered August 27, 2007, as granted that branch of the motion of the defendant Luz Dary Gomez which was for summary judgment dismissing the complaint insofar as asserted against her.

ORDERED that the order is affirmed insofar as appealed from, with costs.

The defendant Luz Dary Gomez demonstrated her prima facie entitlement to judgment as a matter of law by establishing that the codefendant Marvin A. Matamoros violated Vehicle and Traffic Law § 1141 when he made a left turn directly into the path of Gomez's oncoming vehicle (*see Maloney v Niewender*, 27 AD3d 426; *Moreback v Mesquita*, 17 AD3d 420, 421; *Casaregola v Farkouh*, 1 AD3d 306). Gomez, who had the right-of-way, was entitled to anticipate that Matamoros would obey the traffic laws which required him to yield (*see Agin v Rehfeldt*, 284 AD2d 352; *Cenovski v Lee*, 266 AD2d 424).

In opposition to this prima facie showing, the plaintiff failed to demonstrate the existence of a triable issue of fact as to whether Gomez was comparatively negligent. Contrary to the plaintiff's contention, there is no evidence in the record that Gomez violated Vehicle and Traffic Law § 1123(b) when she passed to the right of a vehicle that was about to make a left turn in the intersection.

RIVERA, J.P., ANGIOLILLO, ENG and BELEN, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer  
Clerk of the Court