

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

D28135  
G/kmg

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

Argued - April 30, 2010

MARK C. DILLON, J.P.  
FRED T. SANTUCCI  
L. PRISCILLA HALL  
PLUMMER E. LOTT, JJ.

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2009-06896

DECISION & ORDER

Joann Celentano, et al., appellants, v Catherine Moriarty,  
respondent.

(Index No. 418/08)

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DeProspero, Petrizzo & Longo (Steven A. Kimmel, Washingtonville, N.Y., of counsel),  
for appellants.

Boeggeman, George & Corde, P.C., White Plains, N.Y. (Daniel E. O'Neill and  
Cynthia Dolan of counsel), for respondent.

In an action to recover damages for personal injuries, etc., the plaintiffs appeal from  
an order of the Supreme Court, Orange County (Slobod, J.), dated June 1, 2009, which denied their  
motion for summary judgment on the issue of liability.

ORDERED that the order is reversed, on the law, with costs, and the plaintiffs'  
motion for summary judgment on the issue of liability is granted.

A rear-end collision with a stopped vehicle creates a prima facie case of negligence  
against the operator of the moving vehicle and imposes a duty on that operator to provide a  
non-negligent explanation for the collision (*see Carman v Arthur J. Edwards Mason Contr. Co. Inc.*,  
71 AD3d 813, 813-814; *Franco v Breceus*, 70 AD3d 767, 768). Here, the defendant failed to  
provide a non-negligent explanation for the collision. Her assertion that the plaintiffs' vehicle came  
to a sudden stop in front of her vehicle is not supported by any evidence in the record (*see Farrington  
v New York City Tr. Auth.*, 33 AD3d 332). Accordingly, in response to the plaintiffs' prima facie  
showing of their entitlement to judgment as a matter of law, the defendant failed to raise a triable

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issue of fact. Thus, the Supreme Court should have granted the plaintiffs' motion for summary judgment on the issue of liability.

DILLON, J.P., SANTUCCI, HALL and LOTT, JJ., concur.

ENTER:

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

James Edward Pelzer  
Clerk of the Court