

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

D34065
W/kmb

_____AD3d_____

Argued - January 26, 2012

REINALDO E. RIVERA, J.P.
RANDALL T. ENG
L. PRISCILLA HALL
SANDRA L. SGROI, JJ.

2011-05506

DECISION & ORDER

Sadaf Azeem, appellant, v Bertha M. Cava,
respondent.

(Index No. 19609/10)

Subin Associates, LLP (Pollack, Pollack, Isaac & De Cicco, New York, N.Y. [Brian J. Isaac and Jillian Rosen], of counsel), for appellant.

Richard T. Lau, Jericho, N.Y. (Nancy Goodman of counsel), for respondent.

In an action to recover damages for personal injuries, the plaintiff appeals from an order of the Supreme Court, Nassau County (Iannacci, J.), dated March 23, 2011, which denied her motion for summary judgment on the issue of liability.

ORDERED that the order is affirmed, with costs.

The plaintiff pedestrian was crossing the street in a crosswalk with the traffic light in her favor when she was struck by the defendant's vehicle as it was making a left turn. The plaintiff made a prima facie showing of her entitlement to judgment as a matter of law by submitting evidence that the defendant failed to yield the right-of-way in violation of Vehicle and Traffic Law § 1112(a), and that she looked for approaching traffic before she began to cross the street and was free from comparative fault (*see Martinez v Kreychmar*, 84 AD3d 1037, 1038; *Lariviere v New York City Tr. Auth.*, 82 AD3d 1165, 1166; *Rosenblatt v Venizelos*, 49 AD3d 519, 520). However, in opposition to the motion, the defendant raised a triable issue of fact as to whether the plaintiff was comparatively at fault (*see Thoma v Ronai*, 82 NY2d 736, 737; *Yi Min Feng v Jin Won Oh*, 71 AD3d 879, 880).

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Accordingly, the Supreme Court properly denied the plaintiff's motion for summary judgment on the issue of liability.

RIVERA, J.P., ENG, HALL and SGROI, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court