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This memorandum is uncorrected and subject to revision before  
publication in the New York Reports.  
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No. 240 SSM 34  
John F. Smith and Lisa Smith,  
Respondents,  
v.  
Marijane Reilly,  
Appellant.

Submitted by Adam P. Mastroleo, for appellant.  
Submitted by Stephanie A. Palmer, for respondents.

MEMORANDUM:

The order of the Appellate Division should be reversed,  
with costs, defendant's motion for summary judgment dismissing  
the complaint granted and the certified question answered in the

negative.

Defendant's submissions establish that she had no knowledge of her dog's alleged propensity to interfere with traffic. Defendant testified that the dog had never before chased cars, bicycles or pedestrians or otherwise interfered with traffic. Testimony that the dog, on three to five occasions, escaped defendant's control, barked, and ran towards the road is insufficient to establish a triable issue of material fact (see Collier v Zambito, 1 NY3d 444, 446 [2004]).

\* \* \* \* \*

On review of submissions pursuant to section 500.11 of the Rules, order reversed, with costs, defendant's motion for summary judgment dismissing the complaint granted, and certified question answered in the negative, in a memorandum. Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

Decided October 25, 2011