

**Hendrickson v Philbor Motors, Inc.**

2011 NY Slip Op 33629(U)

January 5, 2011

Supreme Court, Nassau County

Docket Number: 20507/07

Judge: Karen V. Murphy

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Short Form Order

**SUPREME COURT - STATE OF NEW YORK  
TRIAL TERM, PART 17 NASSAU COUNTY**

**PRESENT:**

**Honorable Karen V. Murphy**  
**Justice of the Supreme Court**

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**ROSANNE HENDRICKSON and DENNIS  
HENDRICKSON,**

**Plaintiff(s),**

**-against-**

**PHILBOR MOTORS, INC. d/b/a HEMPSTEAD  
FORD, FORD MOTOR COMPANY and COOPER  
TIRE AND RUBBER COMPANY,**

**Defendant(s).**

\_\_\_\_\_ X

Index No. 20507/07

Motion Submitted: 11/15/10  
Motion Sequence: 014

**WILLIAM MALONE,**

**Plaintiff(s),**

**-against-**

**PHILBOR MOTORS, INC. d/b/a HEMPSTEAD  
FORD, FORD MOTOR COMPANY and COOPER  
TIRE AND RUBBER COMPANY and ROSANNE  
HENDRICKSON,**

**Defendant(s),**

\_\_\_\_\_ X

The following papers read on this motion:

- Notice of Motion/Order to Show Cause.....X
- Answering Papers.....X
- Reply.....X
- Briefs: Plaintiff's/Petitioner's.....
- Defendant's/Respondent's.....

The motion brought by Rosanne Hendrickson and Dennis Hendrickson, the plaintiffs in Action No. 1 of the above captioned actions, for an order of this Court, pursuant to Rules 3211 and 3212 of the CPLR declaring that no party in either of the aforesaid actions may seek at the trial hereof to apportion fault and/or damages with respect to the Defendants, Philbor Motors, Inc. d/b/a Hempstead Ford and/or Ford Motor Company, pursuant to Article 16 of the CPLR, is granted in all respects.

By a prior order of this Court, it was determined, that Defendant, Philbor Motors, Inc. was entitled to an order of this Court, pursuant to Rule 3212 of the CPLR, granting summary judgment in favor of this moving defendant, dismissing Plaintiffs', Roseanne Hendrickson and Dennis Hendrickson, Verified Complaint in Action No. 1, and Plaintiff's William Malone, Verified Complaint in Action No. 2, on the ground that there are no triable issues of fact against the moving defendant and dismissing any and all cross-claims that have been asserted against this defendant in both of the said actions.

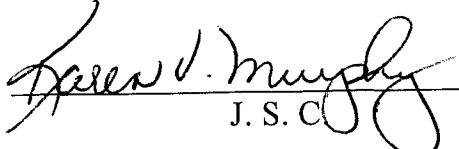
Defendant, Ford Motor Company, in the above captioned actions was granted pursuant to Rule 3211(a)(7) summary judgment in favor of this moving defendant, dismissing Plaintiffs', Roseanne Hendrickson and Dennis Hendrickson, Verified Complaint in Action No. 1 and Plaintiff's, William Malone, Verified Complaint in Action No. 2, on the ground that the said plaintiffs have failed to state a cause of action upon which relief can be granted against this moving defendant and dismissing any and all cross-claims that have been asserted against this defendant in both of the said actions.

In electing not to oppose the herein above described motions of the Defendants, Philbor Motors, Inc. d/b/a Hempstead Ford and Ford Motor Company, all non-moving parties, the plaintiffs and the defendants alike have failed to protect any claims to fault apportionment pursuant to CPLR Article 16 that they may have had against the moving Defendants, Philbor Motors, Inc. d/b/a Hempstead Ford and Ford Motor Company (see, *Drooker v. South Nassau Communities Hospital*, 175 Misc.2d 181, 669 N.Y.S.2d 169 (1998); see also, *Brash v. Richards*, 910 N.Y.S.2d 346, 2010 WL 4227238 [2010])

Therefore, it is the order of this Court that no party in either of the herein above captioned actions may seek at the trial herein to apportion fault and/or damages, pursuant to CPLR Article 16, with respect to the Defendants, Philbor Motors, Inc. d/b/a Hempstead Ford and/or Ford Motor Company.

The foregoing constitutes the Order of this Court.

Dated: January 5, 2011  
Mineola, N.Y.

  
J. S. C.

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**ENTERED**

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NASSAU COUNTY  
COUNTY CLERK'S OFFICE