

**Ali v Coronel**

2017 NY Slip Op 33392(U)

September 13, 2017

Supreme Court, Dutchess County

Docket Number: Index No. 2016-51825

Judge: Peter M. Forman

Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op 30001(U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.

This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF DUTCHESS

-----X

MARCIA ALI and MUHAMMAD ALI,

Plaintiffs,

DECISION AND  
ORDER

-against-

Index No. 2016-51825

ENOC S. CORONEL,

Defendant.

-----X

FORMAN, J., Acting Supreme Court Justice

The Court read and considered the following documents upon  
this application:

PAPERS NUMBERED

NOTICE OF MOTION.....	1
AFFIRMATION.....	2
AFFIDAVIT.....	3
AFFIDAVIT.....	4
EXHIBITS.....	5-7
AFFIRMATION IN OPPOSITION.....	8

This is a personal injury action arising out of a rear-end motor vehicle accident that occurred on Church Street in the City of Poughkeepsie at approximately 4:00 pm on February 13, 2016. Plaintiffs now move for partial summary judgment on the issue of liability.

Specifically, Plaintiffs allege that Muhammad Ali was the driver of a 2015 Subaru that was stopped for at a red light in the eastbound lane of travel on Church Street, and that Marcia Ali was his passenger. Plaintiffs also allege that Defendant was

driving a 2004 Toyota eastbound on Church Street when his vehicle struck Plaintiffs' vehicle from behind, suddenly and without warning

"The operator of a motor vehicle approaching another motor vehicle from the rear is obligated to maintain a reasonably safe rate of speed and control over his or her vehicle, and to exercise reasonable care to avoid colliding with the other vehicle." [Balducci v. Velasquez, 92 AD3d 626, 628 (2d Dept. 2012)]. See also Sehgal v. www.nyairportsbus.com, Inc., 100 AD3d 860 (2d Dept. 2012); Nsiah-Ababio v. Hunter, 78 AD3d 672, 672 (2d Dept. 2010)]. "Accordingly, a rear-end collision establishes a prima facie case of negligence on the part of the operator of the rear vehicle, thereby requiring that operator to rebut the inference of negligence by providing a non-negligent explanation for the collision." [Gibson v. Levine, 95 A.D.3d 1071, 1072 (2d Dept. 2012)]. See also Cortes v. Whelan, 83 A.D.3d 763, 763 (2d Dept. 2011); Plummer v. Nourddine; 82 A.D.3d 1069, 1069-70 (2d Dept. 2011)].

Plaintiffs have established their *prima facie* entitlement to partial summary judgment on the issue of liability as a matter of law. Although Defendant opposes this motion, Defendant has failed to come forward with any evidence rebutting the inference of negligence by providing a non-negligent explanation for the collision. To the extent that Defendant argues that the motion is premature because discovery has not been completed, that argument

must fail because Defendant "has failed to offer an evidentiary basis to suggest that discovery may lead to relevant evidence or that facts essential to opposing the motion are exclusively within the knowledge and control of the plaintiffs." [Kimyagarov v. Nixon Taxi Corp., 45 AD3d 736, 737 (2d Dept. 2007)]. See also [Pierre v. Demoura, 148 AD3d 736, 737 (2d Dept. 2017); Turner v. Butler, 139 AD3d 715, 716 (2d Dept. 2016)]. Based on the foregoing, it is hereby

ORDERED, that Plaintiffs' motion for partial summary judgment on the issue of liability is granted pursuant to CPLR §3212; and it is further

ORDERED, that counsel for the parties shall appear for a compliance conference on September 18, 2017 at 9:30 am, as previously scheduled.

The foregoing constitutes the Decision and Order of this court.

Dated: September 13, 2017  
Poughkeepsie, New York



Hon. Peter M. Forman  
Acting Supreme Court Justice

TO: Sobo & Sobo, LLP  
Attorneys for Plaintiffs  
One Dolson Avenue  
Middletown, New York 10940

Saretsky, Katz & Dranoff, LLP  
Attorneys for Defendant  
475 Park Avenue, South, 26<sup>th</sup> Floor  
New York, New York 10016