

|                                                                                                                                                                                                                                |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Corona v Zaneski</b>                                                                                                                                                                                                        |
| 2019 NY Slip Op 34511(U)                                                                                                                                                                                                       |
| August 1, 2019                                                                                                                                                                                                                 |
| Supreme Court, Putnam County                                                                                                                                                                                                   |
| Docket Number: 500852/2018                                                                                                                                                                                                     |
| Judge: Victor G. Grossman                                                                                                                                                                                                      |
| Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op <u>30001</u> (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.                                                                                                                                                         |

To commence the 30 day statutory time period for appeals as of right (CPLR 5513[a]), you are advised to serve a copy of this order, with notice of entry, upon all parties

**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF PUTNAM**

-----X  
ANNA CORONA and ANTHONY CORONA,

Plaintiff,

-against -

MICHELLE ZANESKI and MICHAEL ZANESKI,

Defendants.  
-----X

**DECISION & ORDER**

Index No.500852/2018

Sequence No. 2

Motion Date: 6/19/19

**GROSSMAN, J.S.C.**

The following papers, numbered 1 to 6, were considered in connection with Plaintiff's Notice of Motion, dated May 20, 2019, seeking an order striking Defendants' answer and granting summary judgment on the issue of liability and counsel fees.

**PAPERS<sup>1</sup>**

Notice of Motion/Affirmation in Support/Exhs. A-C

Affirmation in Opposition

**NUMBERED**

1-5

6

This is an action to recover damages for personal injuries, stemming from a 3-car accident in the eastbound lane of Route 301, at the intersection with Peekskill Hollow Road, Town of Kent, Putnam County on June 16, 2018. At the time of the accident, Defendant

---

<sup>1</sup>The parties and counsel shall familiarize themselves with this Court's Part Rules, which can be found on the OCA website, as parts of this motion and the responsive papers fail to comply with those Rules, to the extent that Plaintiff shall designate exhibits by number, while Defendant shall designate exhibits by letter, and exhibit lettering or numbering shall not begin anew for subsequent papers submitted by the same party. Any future motions that do not comply with this Court's Part Rules may be rejected or dismissed.

Michelle Zaneski, while driving a vehicle owned by Defendant Michael Zaneski, began to make a left turn from her westbound lane on to Peekskill Hollow Road, but as she entered the eastbound lane to cross over, Plaintiff Anna Corona was driving eastbound on Route 301 and collided with the front left side of Defendant's vehicle. As a result, Mrs. Corona fractured her ribs. Her husband, Plaintiff Anthony Corona, is suing for loss of services.

Plaintiffs commenced this action on July 19, 2018. Defendants interposed an Answer on or about August 29, 2018.

Previously, Plaintiffs moved for summary judgment on the issue of liability, but the Court denied that motion on the ground that there was an issue of fact based on Ms. Zaneski's affidavit.

Plaintiffs now move for an Order, striking Defendants' Answer, and granting summary judgment in Plaintiffs' favor on the issue of liability, on the ground that Ms. Zaneski admitted at her deposition that she misrepresented the facts in her affidavit and she admitted she did not yield to Plaintiffs' car. Plaintiffs assert that "defendant admitted at her deposition that she intentionally deceived this Court in her affidavit to avoid the plaintiff winning summary judgment on the issue of liability" (Affirmation at ¶21). Plaintiffs argue that "[s]uch behavior simply should not be countenanced and" the appropriate sanction is the striking of the Answer (Affirmation at ¶21). In the alternative, Plaintiffs seek summary judgment on the issue of liability "from the date of entry of this Court's original decision of January 14, 2019, and for attorney's fees in having to bring this motion" (Affirmation at ¶21).<sup>2</sup>

In opposition, Defendants concede liability, but object to certain representations to the

---

<sup>2</sup>The Court notes that the DVD of the purported video of the accident does not reflect any movement by the cars.

Court, stating they are inappropriate and improperly accusatory to Ms. Zaneski. Accordingly, Defendants maintain that sanctions, including attorneys' fees, and the striking of their Answer are unsuitable at this time.

While this motion was pending, on July 21, 2019, Plaintiffs filed their Note of Issue.

As a threshold matter, Defendants concede liability in their opposition papers. Accordingly, the Court grants partial summary judgment on this issue of liability in this motor vehicle personal injury action. However, based on the Court's review of Ms. Zaneski's deposition, the Court is unpersuaded that any sanctions are warranted at this time, and decline that portion of Plaintiffs' application.

As such, it is hereby

ORDERED that Plaintiffs' motion is granted to the extent stated herein; and it is further

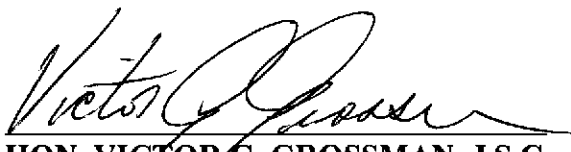
ORDERED that partial summary judgment on the issue of liability is granted in Plaintiffs' favor; and it is further

ORDERED that any remaining demands for relief are denied; and it is further

ORDERED that the parties and counsel are to appear before the undersigned on Friday, August 9, 2019 at 9:30 a.m., as previously scheduled, for a pre-trial conference.

The foregoing constitutes the Decision and Order of the Court.

Dated: Carmel, New York  
August 1, 2019



HON. VICTOR G. GROSSMAN, J.S.C.

To: Harry I. Katz, Esq.  
Harry I. Katz, P.C.  
Attorney for Plaintiffs  
61-25 Utopia Parkway  
Fresh Meadows, New York 11365

Joseph F. McCabe, Esq.  
Martyn and Martyn  
Attorneys for Defendants  
330 Old Country Road, Suite 211  
Mineola, New York 11501