

**St. Surin v Meza**

2019 NY Slip Op 35111(U)

November 27, 2019

Supreme Court, Bronx County

Docket Number: Index No. 30856/2017E

Judge: John R. Higgitt

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SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX: I.A.S. PART 14

-----X  
STEPHANE ST. SURIN,

Plaintiff,

DECISION AND ORDER

- against -

Index No. 30856/2017E

ANGELICA Y. MEZA and LATOYA M. SPEARS,

Defendants.  
-----X

John R. Higgitt, J.

The parties' motions for summary judgment (motion sequences #2 and #3) are consolidated for disposition herein, as they involve common questions of law and fact.

This is a negligence action to recover damages for personal injuries plaintiff sustained in a motor vehicle accident that occurred on December 29, 2016. Defendant Meza seeks summary judgment dismissing the complaint as against her and all cross claims against her (motion sequence #2). Plaintiff seeks summary judgment on the issue of defendants' liability for causing the subject accident (motion sequence #3). For the reasons that follow, defendant Meza's motion for summary judgment is granted and plaintiff's motion for summary judgment is granted in part.

In support of her motion, defendant Meza submitted the pleadings, the police accident report, and the transcripts of the parties' deposition testimony. Defendant Meza testified that at the time of the accident she was stopped behind plaintiff's vehicle, which had stopped abruptly, when defendant Spears' vehicle struck the rear of defendant Meza's vehicle, propelling defendant Meza's vehicle into the rear of plaintiff's vehicle. Defendant Meza asserted that, as the second vehicle in the chain, she is not liable for the accident because her vehicle was propelled into plaintiff's vehicle by defendant Spears' vehicle.

In support of her motion for summary judgment, plaintiff relied on her deposition testimony, in which she testified that at the time of the accident she was traveling in the left lane on Fordham

Road when she came to a stop in order to execute a left-hand turn. Plaintiff testified that she was stopped for about five seconds when defendant Meza's vehicle struck the rear of her vehicle.

For her part, defendant Spears testified that at the time of the accident she was traveling behind defendant Meza's vehicle when that vehicle made a sudden stop. Defendant Spears attempted to stop her vehicle but struck the rear of defendant Meza's vehicle; Spears described the impact as a "medium."

"A rear-end collision with a stationary vehicle creates a prima facie case of negligence requiring a judgment in favor of the stationary vehicle unless defendant proffers a non-negligent explanation for the failure to maintain a safe distance . . . A driver is expected to drive at a sufficiently safe speed and to maintain enough distance between himself [or herself] and cars ahead of him [or her] so as to avoid collisions with stopped vehicles, taking into account weather and road conditions" (*LaMasa v Bachman*, 56 AD3d 340, 340 [1st Dept 2008]). The happening of a rear-end collision is itself a prima facie case of negligence of the rearmost driver in a chain confronted with a stopped or stopping vehicle (*see Cabrera v Rodriguez*, 72 AD3d 553 [1st Dept 2010]).

Vehicle and Traffic Law § 1129(a) states that a "driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the highway" (*see Darmento v Pacific Molasses Co.*, 81 NY2d 985, 988 [1993]). Based on the plain language of the statute, a violation is clear when a driver follows another too closely without adequate reason and that conduct results in a collision (*id.*).

Defendant Meza made a prima facie showing of entitlement to judgment as a matter of law dismissing the complaint as against her and the cross claims against her, and plaintiff made a prima facie showing of entitlement to judgment as a matter of law on the issue of defendant Spears' liability.

Defendant Spears argues that questions of fact exist precluding summary judgment in favor of plaintiff or defendant Meza. Defendant Spears argues that the testimony does not establish the identity of the drivers of the vehicles behind plaintiff's vehicle and therefore does not demonstrate which driver (or drivers) was liable. Also, defendant Spears argues that triable issues of fact exist as to the apportionment of fault among the parties.

Generally, a claim that the driver of a rear-ended vehicle made a sudden stop is insufficient to constitute a non-negligent explanation for the accident (*see Bajrami v Twinkle Cab Corp.*, 147 AD3d 649 [1st Dept 2017]). Thus, the general rule regarding liability for rear-end accidents "has been applied when the front vehicle stops suddenly in slow-moving traffic; even if the sudden stop is repetitive; when the front vehicle, although in stop-and-go traffic, stopped while crossing an intersection; and when the front car stopped after having changed lanes" (*Johnson v Phillips*, 261 AD2d 269, 271 [1st Dept 1999]). Additionally, "[a] driver of a vehicle approaching another vehicle from the rear is required to maintain a reasonably safe distance and rate of speed under the prevailing conditions to avoid colliding with the other vehicle" (*Nsiah-Ababio v Hunter*, 78 AD3d 672, 672 [2d Dept 2010]). The principle that a claim of a sudden stop by the rear-ended vehicle is insufficient to constitute a non-negligent explanation for a hit-in-the-rear accident has particular force when the accident occurs on a local public roadway in the City of New York (*see Animah v Agyei*, 63 Misc 3d 783 [Sup Ct, Bronx County 2019]).

Here, any sudden stop by plaintiff, defendant Meza or both does not provide defendant Spears with a non-negligent explanation for the collision. Critically, defendant Spears offers no excuse for her failure to maintain a reasonably safe distance from defendant Meza's vehicle.

Because defendant Meza's prima facie showing of entitlement to judgment as a matter of law went un rebutted, her motion is granted; because plaintiff's prima facie showing of entitlement to judgment as a matter of law against defendant Spears went un rebutted, plaintiff's motion as directed against Spears is granted.

The court notes that plaintiff did not seek (and the court has not considered) dismissal of defendant Spear's affirmative defense of comparative fault (*see* CPLR 2214[a]; *cf. Poon v Nisanov*, 162 AD3d 804 [2nd Dept 2018]).

Accordingly, it is

ORDERED, that defendant Meza's motion seeking summary judgment is granted, and the complaint as against her and the cross claims against her are dismissed; and it is further

ORDERED, that the Clerk of the Court shall enter judgment in favor of defendant Meza dismissing the complaint as against her and the cross claims against her; and it is further


ORDERED, that the aspect of plaintiff's motion for partial summary judgment on the issue of defendant Spears' liability is granted; and it is further

ORDERED, that plaintiff's motion is otherwise denied; and it is further

The parties are reminded of the March 20, 2020 compliance conference before the undersigned.

This constitutes the decision and order of the court.

Dated: November 27, 2019

  
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John R. Higgitt, A.J.S.C.