

Ortiz v Good Time Transp. Servs., Inc.
2021 NY Slip Op 32992(U)
July 20, 2021
Supreme Court, Suffolk County
Docket Number: Index No. 618570/18
Judge: Carmen Victoria St. George
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**SUPREME COURT – STATE OF NEW YORK
TRIAL TERM, PART 56 SUFFOLK COUNTY**

PRESENT:

Hon. Carmen Victoria St. George
Justice of the Supreme Court

x

ROBERTO ORTIZ and FRANCISCA SANJURJO,

**Index No.
618570/18**

Plaintiffs,

**Motion Seq:
001, 002, 004 MG
003, 005 MD
Decision/Order**

-against-

**GOOD TIME TRANSPORT SERVICES, INC. and J.N.
DEJESUSPLASENCIO,**

Defendants.

x

The following electronically filed papers were read upon this motion:

Notice of Motion/Order to Show Cause.....	14-22; 24-32; 38-46; 69-71; 76-82
Answering Papers.....	56-60; 49-54; 72-74; 84
Reply.....	67; 68; 75

The Court consolidates for determination the five motions pending in this personal injury matter arising from a motor vehicle accident that occurred on August 3, 2017. Motion sequences 1, 2 and 4 are threshold motions. Motion sequence 3 is plaintiffs’ motion for summary judgment on the issue of liability, and sequence 5 is plaintiff’s motion to preclude defendants from offering any evidence at the time of trial.

The Court will address the threshold motions first. The defendants have moved for summary judgment dismissal of the complaint, asserting that neither of the plaintiffs has sustained a serious injury within the meaning of Insurance Law § 5102 (d) (Motion sequences 1 and 2). Plaintiff on the counterclaim, Roberto Ortiz also moves for summary judgment dismissal of the complaint on the grounds that plaintiff Francisca Sanjurjo has not sustained a serious injury (Motion sequence 4). Ortiz relies upon and incorporates defendants’ papers in support of their motion for summary judgment dismissal of Sanjurjo’s claims on this basis.

Summary Judgment Standard

As a proponent of the summary judgment motion, the defendants herein have the initial burden of establishing that plaintiffs did not sustain a causally related serious injury under the categories of injury claimed in the Bill of Particulars (*see Toure v Avis Rent a Car Sys.*, 98 NY2d 345, 352 [2002]). Summary judgment should only be granted where the court finds as a matter of law that there is no genuine issue as to any material fact (*Cauthers v. Brite Ideas, LLC*, 41 AD3d 755 [2d Dept 2007]). The Court's analysis of the evidence must be viewed in the light most favorable to the non-moving party, herein the plaintiffs (*Makaj v. Metropolitan Transportation Authority*, 18 AD3d 625 [2d Dept 2005]).

A defendant can satisfy the initial burden by relying on the sworn statements of defendants' examining physician and plaintiff's sworn testimony, or by the affirmed reports of plaintiff's own examining physicians (*Pagano v Kingsbury*, 182 AD2d 268, 270 [2d Dept 1992]). A defendant can demonstrate that plaintiff's own medical evidence does not indicate that plaintiff suffered a serious injury and that the alleged injuries were not, in any event, causally related to the accident (*Franchini v Palmieri*, 1 NY3d 536, 537 [2003]). A defendant's medical expert must specify the objective tests upon which the stated medical opinions are based and, when rendering an opinion with respect to plaintiff's range of motion, must compare any findings to those ranges of motion considered normal for the particular body part (*Browdame v. Candura*, 25 AD3d 747, 748 [2d Dept 2006]).

The Court notes that, a tear in tendons, as well as a tear in a ligament or bulging disc is not evidence of a serious injury under the no-fault law in the absence of objective evidence of the extent of the alleged physical limitations resulting from the injury and its duration (*Little v. Loch*, 71 AD3d 837 [2d Dept 2010]; *Furrs v. Griffith*, 43 AD3d 389 [2d Dept 2007]; *Mejia v. DeRose*, 35 Ad3d 407 [2d Dept 2006]). Thus, regardless of an interpretation of an MRI study, plaintiff must still exhibit physical limitations to sustain a claim of serious injury within the meaning of the Insurance Law.

Threshold Motion as to Plaintiff Roberto Ortiz (Sequence 001)

Roberto Ortiz alleges in his Bill of Particulars that he has suffered injuries to his cervical and lumbar spine areas, including bulging discs, radiculopathy in those areas, and right hip and knee sprains/strains resulting in, *inter alia*, pain, stiffness, disability, weakness, and partial restriction/limitation of motion, as well as aggravation of underlying dormant/asymptomatic conditions of the lumbar and cervical spine areas. He claims to have suffered serious injuries under the following categories of injury: 1) permanent consequential limitation of use of a body organ or member; 2) significant limitation of use of a body function or system; and 3) a medically determined injury or impairment of a non-permanent nature which prevented plaintiff from performing substantially all of the material acts which constituted plaintiff's usual and customary daily activities for not less than 90 days during the 180 days immediately following the occurrence of the injury or impairment (90/180 claim).

In support of their threshold motion, the defendants submit, *inter alia*, the pleadings, plaintiff Ortiz's deposition transcript, plaintiff's MRI reports, and the affirmations of their

medical experts, Jesu Jacob, D.O., Diplomate American Board of Orthopedic Surgeons and Mark J. Decker, M.D., Musculoskeletal and Spine Radiologist. Defendants have made a *prima facie* showing that the plaintiff Ortiz has not sustained any injuries under any of the categories claimed in his Bill of Particulars.

Ortiz's own MRI reports related to his cervical and lumbar spine areas do not attribute any of the findings therein to the subject accident. Rather, the MRI reports of the studies performed twenty (20) days after the accident state that there is desiccation of all the cervical and lumbar intervertebral discs in addition to various bulges and degenerative disc disease. Neither of the reports attributes any of the findings to the accident of August 3, 2017.

Dr. Decker's review of the MRI studies performed on Roberto Ortiz's cervical and lumbar spine areas is consistent with the imaging performed 20 days after the subject accident in that Dr. Decker states that there is diffuse degenerative disc disease in both spinal areas, and that the findings, including the bulging discs, are not causally related to the August 3, 2017 accident, but are longstanding in nature.

Dr. Jacob examined Roberto Ortiz on January 24, 2020. At the time that Dr. Jacob conducted the independent orthopedic examination, plaintiff was sixty-eight (68) years old, and he was not employed. According to Dr. Jacob's affirmed report, all range of motion measurements noted therein were obtained by the use of a goniometer and compared to the AMA Guidelines to the Evaluation of Permanent Impairment, 5th Edition.

Dr. Jacob found normal ranges of motion in Ortiz's lumbosacral spine, right hip, and knee, in addition to obtaining negative results on fifteen (15) orthopedic tests performed on those areas. With regard to Ortiz's cervical spine, the three orthopedic tests performed yielded negative results. Right and left lateral flexion was normal, and measurements for flexion and extension of the cervical spine yielded restrictions that are not significant within the meaning of the Insurance Law (10°/20% and 10°/17%, respectively) (*see Licari v. Elliott*, 57 NY2d 230, 236 [1982]; *Lively v. Fernandez*, 85 AD3d 981 [2d Dept 2011] [the 10° limitation in plaintiff's rotation of her cervical spine to 70° instead of 80° noted by defendant's examining neurologist was insignificant within the meaning of Insurance Law § 5102 [(d)]; *Trotter v. Hart*, 285 AD2d 772 [3d Dept 2001] [20 % loss of use of cervical spine does not establish a significant or consequential injury]). Dr. Jacob opined that "[t]he decreased ranges of motion in the cervical spine are clinically insignificant, as they were to the degree allowed by the claimant and not supported by the remainder of the examination findings." The remainder of the examination findings for all of the areas examined by Dr. Jacob, including the cervical spine, were normal and symmetrical reflexes in the upper and lower extremities, normal muscle strength, no atrophy, no sensorial deficits, and no neurotrophic changes. Mr. Ortiz was also able to stand on his toes and heels without difficulty and walk with a normal gait without assistive devices. Finally, Dr. Jacob wrote that "[t]here is no objective evidence of an orthopedic disability or permanent injury. . . [and] the claimant is capable of performing activities of daily living and work duties without restrictions or limitations."

Accordingly, there is no evidence of a serious injury in the categories of permanent consequential limitation of use, or significant limitation of use provided for by Insurance Law § 5102 (d); thus, defendants have established their *prima facie* entitlement to summary judgment as a matter of law as to these categories of injury.

Defendants have also established their *prima facie* entitlement to summary judgment as to plaintiff's 90/180 claim by submitting plaintiff's deposition transcript (*Kuperberg v. Montalbano*, 72 AD3d 903 [2d Dept 2010]; *Sanchez v. Williamsburg Volunteer of Hatzolah, Inc.*, 48 AD3d 664 [2d Dept 2008]).

Roberto Ortiz testified that he was wearing a seat belt at the time of the accident and that the air bags in his vehicle did not deploy as a result of the accident. According to plaintiff, the defendants' vehicle impacted the right front bumper and tire of plaintiff's vehicle. Mr. Ortiz did not receive medical attention at the scene, and he did not present for medical attention until four days later when he went to a Dr. DaSilva. Plaintiff received physical therapy treatment to his neck and back for approximately six months and also possibly two or three steroid injections only in his lower back. He did not undergo surgery and did not receive any other treatment. No medications were prescribed to plaintiff; he only took Tylenol. At the time of his deposition in November 2019, plaintiff had no future medical appointments related to the injuries he allegedly sustained in the subject accident.

Plaintiff testified that he was retired at the time of the accident, and he is not claiming any lost earnings. He testified that he experiences intermittent pain in his neck and back, and he cannot lift anything heavy. Other than heavy lifting, plaintiff testified that there are no other activities that he cannot do since the accident. When asked if there are any activities that he still does since the accident, but with difficulty, plaintiff answered, "No." Plaintiff can still drive a car and his back hurts when he drives more than one hour. Plaintiff's own Bill of Particulars alleges only that he was confined to bed for two days following the subject accident, and that he was confined to home "intermittently" since the accident.

Plaintiff's own deposition testimony is insufficient to demonstrate that he was prevented from performing substantially all of his customary daily activities for not less than 90 days during the 180 days immediately following the subject accident (*Omar v. Goodman*, 295 AD2d 413 [2d Dept 2002]; *Lauretta v. County of Suffolk*, 273 AD2d 204 [2d Dept 2000]).

Plaintiff Ortiz is now required to come forward with viable, valid objective evidence to verify his complaints of pain, permanent injury and incapacity (*Faroze v. Kamran*, 22 AD3d 458 [2d Dept 2005]). In order to satisfy the statutory serious injury threshold, a plaintiff must have sustained an injury that is identifiable by objective proof; subjective complaints of pain do not qualify as serious injury within the meaning of Insurance Law §5102(d) (see *Toure, supra*; *Scheer v Koubek*, 70 NY2d 678, 679 [1987]; *Munoz v Hollingsworth*, 18 AD3d 278, 279 [1st Dept 2005]). Furthermore, a plaintiff cannot defeat a motion for summary judgment, and successfully rebut a *prima facie* showing that he did not sustain a serious injury, merely by relying on documented subjective complaints of pain (*Uddin v Cooper*, 32 AD3d 270, 271 [1st Dept 2006] *lv to appeal denied* 8 NY3d 808 [2001]).

In opposition, Roberto Ortiz submits the affirmation of counsel, which is not evidence, his own affidavit, an affidavit of Dennis DaSilva, D.C. accompanied by medical records, and the affirmation of Stephen Hershowitz, M.D.

With respect to Mr. Ortiz's affidavit, it is written in English. At his deposition, Mr. Ortiz utilized the services of a Spanish language interpreter. The purported affidavit sworn to on November 25, 2020 is not accompanied by a translator's affidavit, which is required of foreign language witnesses. There is no clear indication of who translated the four typewritten pages to Mr. Ortiz, or the qualifications of that person to do so. The lack of a translator's affidavit renders Mr. Ortiz's English language affidavit facially defective and inadmissible (*CPLR § 2101 [b]*; *Saavedra v. 64 Annfield Court Corp.*, 137 AD3d 771 [2d Dept 2016]; *Raza v. Gunik*, 129 AD3d 700 [2d Dept 2015]; *Eustaquio v. 860 Cortlandt Holdings, Inc.*, 95 AD3d 548 [1st Dept 2012]; *Reyes v. Arco Wentworth Management Corporation*, 83 AD3d 47 [2d Dept 2011]; see also *Ramos v. Bartis*, 112 AD3d 804 [2d Dept 2013]; *1650 Realty Associates, LLC v. Sasoun*, 52 Misc3d 139 [A] [App Term 2d Dept 2016]).

It is undisputed that Dr. DaSilva first treated Roberto Ortiz on August 7, 2017, four days after the subject accident, until May 2018, when treatment ceased. According to Dr. DaSilva's affidavit, Mr. Ortiz returned on July 29, 2020, after the instant summary judgment motion was filed by the defendants. With respect to the more than two-year gap in treatment, Dr. DaSilva states that, "[t]here was a gap in his treatment as I had determined back in May of 2018 that any further treatment would have been palliative in nature. I determined that he had reached maximum medical improvement at that time and instructed him to continue doing therapy at home and gave him a home exercise program to do." In contrast, in the medical records annexed to Dr. DaSilva's affidavit, Dr. DaSilva noted on May 18, 2018 that, "I have decided to continue treatment, but we will reduce frequency and review progress." So, it seems that Dr. DaSilva's present contention that plaintiff had reached maximum medical improvement in May 2018 is not supported by Dr. DaSilva's own medical records made at that time. Accordingly, there are unsupported and conflicting explanations for the gap in/cessation of treatment in this case (*Moore v. Sarwar*, 29 AD3d 752 [2d Dept 2006]). "[A] plaintiff who terminates therapeutic measures following the accident. . . must offer some reasonable explanation for having done so" (*Pommels v. Perez*, 4 NY3d 566, 574 [2005]). "Here, the explanation offered contradicts the earlier recommendation to continue physical therapy, and can not be accepted under the circumstances presented" (*DeSouza v. Hamilton*, 55 AD3d 352, 353 [1st Dept 2008] [physician's affirmation stating that plaintiff had reached maximum benefit contradicted physician's contemporaneous report that recommended that plaintiff continue physical therapy]). As a result of these conflicting statements, this Court determines that there is no reasonable, supported explanation for the lengthy gap in treatment in this case, warranting the granting of the defendants' motion. Furthermore, there is nothing in Dr. DaSilva's current affidavit, or in the annexed medical records, supporting Roberto Ortiz's 90/180 claim.

Based upon the foregoing, this Court determines that plaintiff's opposition has failed to raise a triable issue of fact sufficient to defeat defendants' summary judgment motion. Accordingly, defendants' motion is granted, and the complaint of Roberto Ortiz is dismissed in its entirety.

Threshold Motion as to Plaintiff Francisca Sanjurjo (Sequences 002 and 004)

Defendants submit the pleadings, Sanjurjo's deposition transcript, plaintiff's x-ray reports, and the affirmations of Dr. Jacob and Dr. Decker in support of their summary judgment motion seeking dismissal of Francisca Sanjurjo's complaint. Ms. Sanjurjo is Mr. Ortiz's wife, and she was the front seat passenger in Ortiz's vehicle at the time of the accident.

In her Bill of Particulars, she alleges that she suffered injuries to her cervical spine, lumbar spine, and right knee as a result of the subject accident, radiculopathy, and aggravation of underlying dormant conditions of the cervical and lumbar spine areas. She alleges that her injuries fall under the following categories of injury: 1) permanent consequential limitation of use of a body organ or member; 2) significant limitation of use of a body function or system; and 3); a medically determined injury or impairment of a non-permanent nature which prevented plaintiff from performing substantially all of the material acts which constituted plaintiff's usual and customary daily activities for not less than 90 days during the 180 days immediately following the occurrence of the injury or impairment (90/180 claim). She also alleges that she was confined to bed for two days following the accident, to home "intermittently" since the accident, and that she has been incapacitated from her employment from the date of the accident until the present.

Dr. Jacob examined Francisca Sanjurjo on January 24, 2020. At the time that Dr. Jacob conducted the independent orthopedic examination, plaintiff was sixty-eight (68) years old, had missed some time from work, and was not working at the time of the examination. According to Dr. Jacob's affirmed report, all range of motion measurements noted therein were obtained by the use of a goniometer and compared to the AMA Guidelines to the Evaluation of Permanent Impairment, 5th Edition. According to his report, Dr. Jacob found no limitations in range of motion of plaintiff's cervical, thoracic, and lumbosacral spine areas, no limitations in range of motion of her right knee, normal and symmetrical reflexes, good muscle strength with no atrophy, intact sensation, no neurotrophic changes, and the ability to stand on her toes and heels without difficulty. Plaintiff was also observed to walk with a normal gait, and without any assistive device. Furthermore, all of the sixteen (16) additional orthopedic tests conducted on the aforementioned parts of plaintiff's body yielded negative results.

Dr. Jacob wrote that there "is no objective evidence of an orthopedic disability or permanent injury. Ms. Sanjurjo is currently not working. However, the claimant is capable of performing activities of daily living and work duties without restrictions or limitations."

The submitted x-ray reports pertaining to plaintiff's cervical and lumbar spine areas and her right knee undisputedly list under the "Impression" section that there are degenerative changes but no fractures or dislocations. Dr. Decker reviewed these studies and he also concluded that there is multilevel degenerative disc disease, arthrosis, diffuse Luschka hypertrophy, all of which are longstanding and not causally related to the subject accident. According to Dr. Decker, there is no evidence to suggest that an acute traumatic injury was sustained to plaintiff's lumbar spine, cervical spine, or right knee.

Accordingly, there is no evidence of a serious injury in the categories of permanent consequential limitation of use, or significant limitation of use provided for by Insurance Law § 5102 (d); thus, defendants have established their *prima facie* entitlement to summary judgment as a matter of law as to these categories of injury.

Plaintiff's deposition testimony serves to establish that defendants are also entitled, *prima facie*, to summary judgment on Ms. Sanjurjo's 90/180 claim. Like Mr. Ortiz, Ms. Sanjurjo did not seek medical attention until four days after the accident when she went to Dr. DaSilva. She testified that she treated with Dr. DaSilva for approximately eight months and then she presented to Island Shore Physical Therapy for four to five months. Plaintiff received physical therapy, chiropractic adjustments and two steroid injections to her right knee. At the time of her deposition, she had no future medical appointments for the injuries that she allegedly sustained as a result of the subject accident; however, her primary care physician for an unrelated condition apparently prescribes her pain medication.

Plaintiff testified that she cannot work as a daycare worker since the subject accident because she cannot bend and experiences pain in her leg and back; however, as noted by defendants' examining radiologist, the plaintiff suffers from longstanding degenerative and other issues in her back and right knee that are not causally related to the subject accident. Plaintiff described her work status as "retired." In contrast to her Bill of Particulars, plaintiff testified that she was confined to her bed for two or three months after the accident; yet none of her medical providers ever prescribed any type of a wrap or brace for her knee. With regard to her neck, at deposition plaintiff testified that her neck bothers her maybe three times per month, "but not that much." Plaintiff apparently can still perform household chores like washing dishes, vacuuming, and sweeping, taking care of her young children and making sure they do their homework, but she can no longer plant flowers or jog. Although plaintiff testified that she can no longer go to the gym, she acknowledged that she was not a member of a gym at the time of the accident. Plaintiff was able to travel to Puerto Rico in 2018 to celebrate her daughter's birthday.

As to aggravation of prior issues with her neck and lower back, at deposition plaintiff testified that she did not recall any such prior issues, and counsel acknowledged that there may be an error in the Bill of Particulars.

Plaintiff's own deposition testimony is insufficient to demonstrate that she sustained a medically determined injury or impairment of a non-permanent nature related to the subject accident that prevented her from performing substantially all of her customary daily activities for not less than 90 days during the 180 days immediately following the subject accident (*Omar, supra; Lauretta, supra*).

In opposition, plaintiff submits her own affidavit, the affidavit of Dr. DaSilva, certificates of disability from Dr. DaSilva, and the affirmation of Dr. Albert.

Plaintiff's affidavit is not admissible to prove that she has suffered any medically determined injury as a result of the subject accident, and her subjective complaints of pain are insufficient to defeat defendants' motion) (*see Toure, supra; Scheer, supra; Munoz, supra; Uddin, supra*).

The affirmation of Pradeep Albert, M.D. merely affirms the findings of the CT scan performed on plaintiff's cervical spine on August 22, 2017, but his affirmation does not causally relate any of those findings to the subject accident. Apparently the examining radiologist (Dr. Kessler) is no longer available, but Dr. Albert attests to the accuracy of the CT scan and the contents of the report. Notably, the "Impression" section of that report authored by Dr. Kessler states that "[m]ultilevel degenerative change as described. No significant neural foraminal or spinal stenosis. . .No visible fracture. No subluxation or dislocation."

Dr. DaSilva fails to adequately address the CT findings or the x-ray findings relative to plaintiff's cervical and lumbar spine areas and her right knee that also disclose degenerative changes but no fractures or dislocations in those areas. As to the CT scan, Dr. DaSilva writes in his current affidavit that "Dr. Decker did not review the CT scan of the cervical spine or lumbar spine." In fact, there is no CT scan of the lumbar spine submitted for the Court's consideration, only the cervical spine CT showing multilevel degenerative changes. As to the x-ray reports concerning plaintiff's cervical spine, lumbar spine, and right knee, Dr. DaSilva does not address those reports directly; rather, he states that Dr. Decker's film review of those x-rays noted "some findings of degeneration" in those areas. The x-ray reports themselves do not note "some findings of degeneration;" instead, plaintiff's own x-ray reports exclusively note only degenerative changes. In an apparent attempt to soften the deleterious impact of plaintiff's own radiological studies, Dr. DaSilva states that, "[w]hile it is probable to find some amount of degeneration in the cervical spine or lumbar spine of a plaintiff who has the attained age of . . . 69 years old, the fact that she was asymptomatic at the time of this accident coupled with the severity of her injuries point to the current accident being the cause of her pain and limitations as set forth herein."

Essentially, Dr. DaSilva is basing his conclusion on plaintiff's subjective complaints of pain rather than pointing to objective medical evidence explaining away the overwhelming and only findings of longstanding degenerative changes in the cervical spine, lumbar spine and right knee. In terms of the limitations he refers to, there is a gap in treatment of two years and five months that Dr. DaSilva explains as follows: "I had determined back in April of 2018 that any further treatment would have been palliative in nature. I determined that she had reached maximum medical improvement at that time and instructed her to continue doing therapy at home and gave her a home exercise program to do." The submitted medical reports annexed to Dr. DaSilva's affidavit range in date from August 7, 2017 to September 29, 2017, thereby undermining his statement that he treated for eight months after the subject accident, or until April 2018. Moreover, the last report dated September 29, 2017 does not indicate that plaintiff reached maximum benefit and that any further treatment would have been palliative in nature. There is no report from April 2018 submitted to this Court.

Dr. DaSilva has also annexed to his own affidavit the records of Eric D. Shapiro, M.D., a physical medicine and rehabilitation physician, but there is no certification of those records or an affirmation from Dr. Shapiro; accordingly, they are not admissible.¹ Even if these records were considered, the last of Dr. Shapiro's reports is dated September 28, 2017 and it does not indicate maximum benefit reached/palliative in nature. For these reasons, Dr. DaSilva's opinion that

¹ Dr. Shapiro's records were not reviewed by defendants' examining physicians.

plaintiff's spine and right knee conditions were caused by the accident and not by degeneration are rendered conclusory and unsupported (*Alvarez v. NYLL Management Ltd.*, 120 AD3d 1043 [1st Dept 2014], *aff'd* 24 NY3d 1191 [2015]). In addition he has failed to adequately explain the lengthy gap in treatment (*Moore, supra; Pommels; supra; DeSouza, supra*). Concomitantly, and as a result of these deficiencies in Dr. DaSilva's affidavit, his certificates of disability submitted in opposition are insufficient to raise a triable issue of fact as to causation.


Based upon the foregoing, this Court determines that plaintiff's opposition has failed to raise a triable issue of fact sufficient to defeat defendants' and plaintiff on the counterclaim's (Roberto Ortiz) summary judgment motions. Accordingly, defendants' and Ortiz as plaintiff on the counterclaim's motions are granted, and the complaint and counterclaim of Francisca Sanjurjo is dismissed in its entirety.

Motion Sequences 003 and 005

Plaintiffs' cross-motion on the issue of liability (Sequence 3) and plaintiffs' motion to preclude the defendants from offering any evidence at trial (Sequence 5) are denied as academic in view of this Court's determination of Motion Sequences 1, 2 and 4.

The foregoing constitutes the Decision and Order of this Court.

Dated: July 20, 2021
Riverhead, NY



CARMEN VICTORIA ST. GEORGE, J.S.C.

FINAL DISPOSITION [X] NON-FINAL DISPOSITION []