

**Compail v Anderson**

2022 NY Slip Op 32066(U)

June 28, 2022

Supreme Court, Kings County

Docket Number: Index No. 504053/2019

Judge: Debra Silber

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**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS : PART 9**

**X**

**ROSEMAY COMPAIL and PATRICK COMPAIL,**

**Plaintiffs,**

**-against-**

**DENEISHA ANDERSON, DENNIS WRIGHT, and  
DOMINICK WRIGHT,**

**Defendants.**

**X**

**DECISION/ORDER**

**Index No. 504053/2019  
Motion Seq. No. 3, 4  
Date Submitted: 6/16/22**

***Recitation, as required by CPLR 2219(a), of the papers considered in the review of plaintiffs' motion for summary judgment on the issue of liability and defendants Wright and Wright's cross motion for summary judgment.***

<b>Papers</b>	<b>NYSCEF Doc.</b>
Notice of Motion, Affirmation and Exhibits.....	<u>41-52</u>
Notice of Cross Motion, Affirmation and Exhibits .....	<u>53-63</u>
Answering Affirmations, Exhibits, and Memoranda .....	<u>64, 66-67</u>
Reply.....	<u>68</u>

**Upon the foregoing cited papers, the Decision/Order on these motions is  
as follows:**

This action arises from a motor vehicle accident which took place on December 22, 2018, between 8:00 PM and 9:00 PM at the intersection of Avenue K and Ralph Avenue, Brooklyn, NY. At the time of the accident, Rosemay Compail owned and operated a 2009 Nissan Murano, defendant Deneisha Anderson owned and operated a 2017 Nissan Rogue, and defendant Dominick Wright operated a 2007 Honda Civic, which was owned by his father Dennis Wright. Immediately prior to the accident, defendant Dominick Wright was traveling north on Ralph Avenue, and he proceeded straight through the intersection with Avenue K. Defendant Deneisha Anderson was

driving south on Ralph Avenue and made a left turn onto Avenue K in front of Wright's vehicle. Defendant Anderson's vehicle came into contact with Dominick Wright's vehicle in the intersection of Avenue K and Ralph Avenue. When the defendants' cars came into contact, plaintiff Rosemay Compail's car was stopped at a red traffic light on Avenue K at the intersection with Ralph Avenue. The contact between the defendants' vehicles pushed defendant Deneisha Anderson's vehicle into plaintiff Rosemay Compail's vehicle. This action was commenced on February 22, 2019, by filing a summons and complaint. Defendant Anderson has a separate action for her personal injuries against the Wright defendants, which has been joined for trial with this action (index no. 517845/19).

Plaintiffs<sup>1</sup> move for summary judgment on the issue of liability against all defendants, claiming that their vehicle was lawfully stopped when the defendants' vehicles came into contact with each other and then, as a result of that impact, caused defendant Deneisha Anderson's vehicle to hit plaintiff's vehicle. Plaintiffs support their motion with the pleadings, an affirmation of counsel, a certified police accident report, and deposition transcripts from all three drivers.

Defendants Dennis Wright and Dominick Wright cross-move for summary judgment, alleging that the accident was solely co-defendant Deneisha Anderson's fault, as she made an illegal left turn and failed to yield the right of way to the Wright vehicle, which was proceeding through the intersection with the right of way, resulting in contact with the Wright's vehicle and then with the plaintiff's vehicle. Defendants assert that co-defendant Anderson's left turn was negligent *per se because* there was a "no left turn" sign for traffic traveling southbound on Ralph Avenue at its intersection with Avenue K.

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<sup>1</sup> Plaintiff Patrick Compail's claims are purely derivative.

Defendants Dennis Wright and Dominick Wright contend that they did not cause or contribute to the accident and are therefore not liable for plaintiff's injuries. Defendants support their motion with the pleadings, an affirmation of counsel, an uncertified copy of the police report, and the EBT transcripts of all three drivers.

Plaintiffs oppose defendants' motion for summary judgment, alleging that defendant Anderson and defendants Dennis Wright and Dominick Wright did not comply with Uniform Civil Rules for Supreme Court, Section 202.8-g<sup>2</sup> in their motion papers, and also that defendants Dennis Wright and Dominick Wright do not make a prima facie case for summary judgment. Plaintiffs also contend that because defendants Dennis and Dominick Wright did not include correspondingly numbered paragraphs responding to each paragraph in plaintiff's Statement of Material Facts, that neither of the co-defendants complied with Uniform Rule 19-a section 202.8-g. Further, plaintiffs argue that defendants Dennis Wright and Dominick Wright have not made a prima facie case in their cross motion for summary judgment, as to do so, Wright must establish that he was completely free of fault, and he has not done so.

Plaintiffs argue that they are entitled to summary judgment on the issue of liability against all of the defendants because plaintiff Compail was stopped at a red light at the time of the accident, none of the defendants have a legally valid non-negligent explanation for the happening of the accident, and that there is no question that at least one, if not both, of the defendants are responsible for plaintiff's injuries.

Defendant Anderson submitted opposition to both the plaintiffs' motion for summary judgment and co-defendants' cross motion for summary judgment. Defendant

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<sup>2</sup> 22 NYCRR § 202.8-g details the rules for motion papers for summary judgment motions, including providing a statement of material facts. This rule is superseded by an amended Rule 202.8-g which starts 7/1/22 and provides that statements of material facts are optional unless required by the individual judge.

Anderson argues that even if the court grants plaintiffs' motion for summary judgment, that there remain questions of material fact as to the degree of responsibility for the accident between the co-defendants and how the accident happened.

Defendants Dennis Wright and Dominick Wright replied to plaintiffs' opposition to their cross motion, and state that co-defendant Anderson did not have her turn signal on as she approached the intersection, that co-defendant Anderson made an illegal left turn at the intersection, as the intersection was clearly marked that no left turns were allowed. Even if there had not been a no left turn sign, Anderson violated New York Vehicle and Traffic Law §1141, which is negligence *per se*. It states:"[t]he operator of a vehicle intending to turn left within an intersection must yield the right-of-way to any oncoming vehicle that is within the intersection or so close to it as to constitute an immediate hazard." Defendants Wright argue that because of this, co-defendant Anderson was the sole proximate cause of the accident.

Neither defendant Anderson nor the Wright defendants contest plaintiffs' argument that she was legally stopped and had no liability for the happening of the accident.

Plaintiffs' motion for summary judgment on the issue of liability is granted to the following extent. First, any affirmative defenses or counterclaims alleging comparative fault on the part of the plaintiff Rosemay Compail are stricken. Second, plaintiffs are granted summary judgment on the issue of liability against defendant Anderson, whose negligence was established by plaintiffs. However, plaintiffs' motion for summary judgement on the issue of liability as against the Wright defendants, and the Wright defendants' cross motion for summary judgment, must be denied. Whether or not Wright was negligent in the operation of his vehicle requires a trial. (See *Lindo v Katz*,

2022 NY Slip Op 03379 [2d Dept]).

Accordingly, it is **ORDERED** that plaintiffs' motion for summary judgment is granted to the extent set forth herein, and the Wright co-defendants' motion for summary judgment is denied.

This constitutes the decision and order of the court.

Dated: June 28, 2022

ENTER:



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Hon. Debra Silber, J.S.C.