

IN THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND
Civil Division

<p>Plaintiff,</p> <p>v.</p> <p><i>, et al,</i></p> <p>Defendants.</p>	<p>Case No.:</p>
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PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT
ON THE ISSUE OF DEFENDANT _____ FAILURE TO EXERCISE
REASONABLE CARE
(Hearing Requested)

Plaintiff, _____, by and through his attorneys, Laura G. Zois and Miller & Zois, LLC, pursuant to Maryland Rule 2-501, hereby files Plaintiff's Motion for Partial Summary Judgment on the Issue of Defendant _____'s Failure to Exercise Reasonable Care and in support thereof states as follows:

INTRODUCTION

This is a negligence case arising from an automobile collision on _____, at the intersection of Route 1 (also known as "_____ Avenue") and _____ Road in College Park, Maryland. Plaintiff, _____ (hereinafter "Plaintiff"), was traveling northbound on Route 1. Defendant, _____ (hereinafter "Defendant"), was traveling westbound on _____ Road. Mr. _____ was driving straight with a constant green light when Defendant suddenly entered the intersection from _____ Road against a red light, depriving Mr. _____ of the right-of-way and causing a collision. Exhibit 1 (Aerial view of the scene). It is undisputed that Defendant entered the intersection against a red light traffic signal. Mr. _____ is entitled to the entry of partial summary judgment against Defendant _____ because she failed to

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exercise reasonable care as a matter of law by running a red light, and because her breach of her duty of care was the proximate cause of the collision.

UNDISPUTED FACTS

Mr. [redacted] was driving northbound on Route 1 in the far left travel lane approaching its intersection with [redacted] Road. Exhibit 2 (State of Maryland Motor Vehicle Accident Report); Exhibit 3, P. 2 (Mr. [redacted] Answers to Interrogatories); and Exhibit 4, P. 63, L. 1-2. (Mr. [redacted] Deposition). Ms. [redacted] was driving on [redacted] Road in the only westbound travel lane approaching the intersection with Route 1. Exhibit 5, P. 8, L. 20-22; P. 9, L. 1-3; P. 19, L. 16-22 ([redacted] 's Deposition).

At Mr. [redacted] 's deposition, he testified as to how the collision occurred:

I had a green light that I could clearly see at the intersection of Route 1 and [redacted] Road. As I was going through that light [Defendant's] vehicle came into, she ran the red light that she had on [redacted] Road, came into the intersection. I tried to avoid her by trying- I hit my breaks and tried to avoid her moving into the opposite lane, but I could not. I struck her vehicle and bounced off her vehicle and struck a tree.

Exh. 4, P. 62, L. 21 to P. 63, L. 1-11.

Due to Defendant's current medical condition (unrelated to the occurrence) she cannot recall any of the details surrounding the collision. Exhibit 6, P. 3-5 (Ms. [redacted] 's Answers to Interrogatories); Exhibit 7, P. 20, L. 16-22 (Ms. [redacted] 's Deposition).

[redacted] d was an independent eyewitness to the collision. Exh. 5, P. 8, L. 14-17.

Ms. [redacted] was a student at the University of Maryland, located on Route 1 north of the collision site. Exh. 5, P. 9, L. 4-5. She often traveled through the Route 1- [redacted] Road intersection on her way to and from class. Exh. 5, P. 9, L. 6-8. Immediately prior to the

collision, Ms. [redacted] was walking northbound on the sidewalk adjacent to Route 1. Exh. 5, P. 20, L. 3-6.

As Ms. [redacted] was approaching the intersection to cross from the southeast corner of Route 1 to the northeast corner she "could look up ...and see what color the [northbound Route 1] traffic light was." Exh. 5, P.17, L. 2-10. Right before the collision Ms. [redacted] saw that the signal for northbound traffic on Route 1 (the direction Mr. [redacted] was traveling), was green. Exh. 5, P. 17, L 11-21, P. 18, L. 1-16. At the same time, Ms. [redacted] saw that the pedestrian walk signal was lit permitting her to cross over [redacted] Road. *Id.* Based on her previous experiences crossing this intersection, Ms. [redacted] knew that the traffic signal on [redacted] Road "should be red" while the walk signal was lit to permit pedestrians to cross [redacted] Road. *Id.*

It took "less than ten seconds" for Ms. [redacted] to observe the green traffic light that was facing Mr. [redacted] and to cross [redacted] Road to the northeast corner of Route 1. Exh. 5, P. 21, L. 11-16. Upon reaching the corner, Ms. [redacted] saw Mr. [redacted] start to drive, saw Defendant's car enter the intersection from [redacted] Road, and saw the collision happen. Exh. 5, P. 19, L 16-22; to P. 20, L. 1.

SUMMARY JUDGMENT STANDARD

Pursuant to Maryland Rule 2-501(a), "any party may file at any time a motion for summary judgment on all or part of an action on the grounds that there is no genuine dispute as to any material fact and that the party is entitled to judgment as a matter of law." When considering a motion for summary judgment the court shall view the facts, and any reasonable inferences that may be drawn from them, in favor of the nonmoving party. But, where the

pleadings, depositions, admissions, and/or affidavits demonstrate that no material fact remains in controversy and the moving party is in fact entitled to judgment as a matter of law, then the court should properly grant the motion for summary judgment. *Brown v. Suburban Cadillac, Inc.*, 260 Md. 251, 255, 272 A.2d 42, 44 (1970).

The party opposing the motion must show by facts that would be admissible in evidence that there is a real dispute between the parties. *Knisley v. Keller*, 11 Md. App. 269, 273 A.2d 624 (1971). A general allegation that there is a dispute of material fact is never sufficient to defeat a properly supported motion for summary judgment. *Brown*, 260 Md. 251, 272 A.2d 42.

ARGUMENT

The driver of an automobile owes to other motorists the degree of reasonable care that a person of ordinary skill and judgment would use under similar circumstances. *Kaffl v. Moran*, 233 Md. 473, 477-78, 197 A.2d 240, 241-42 (1964). The undisputed facts of this case show that Defendant violated her duty to exercise reasonable care under Maryland's statutory and common law by entering the intersection against a red light and by not yielding to traffic on the favored roadway, Route 1.

I. Defendant Failed to Exercise Reasonable Care as a Matter of Law Because She Ran a Red Light.

The driver of an automobile has a duty to exercise reasonable care. *Id.* Motorists have a duty to pay attention so they are aware of anything in the roadway before them. *Murphy v. Bd. of County Comm'rs*, 13 Md. App. 497, 510, 284 A.2d 261, 269-270 (1971). A driver's "primary attention should be directed to the road in front." *Faulkner v. Cummings*, 256 Md. 552, 556, 261 A.2d 468, 470 (1970).

It is undisputed that Defendant entered the intersection while a red traffic light forbid vehicles traveling on _____ Road from entering the intersection. Exh. 4, P. 63, L. 6; Exh. 5, P. 18, L. 16; Exh. 6. Defendant _____ had a duty to pay attention and to be aware of the traffic signal facing her. *Murphy*, 13 Md. App. at 510, 284 A.2d at 269-270; *Faulkner*, 256 Md. at 556, 261 A.2d 468, 470. Defendant breached her duty by failing to notice and obey the red traffic signal and by entering the intersection against the red traffic signal. Consequently, Defendant _____ breached her duty of care as a matter of law and Mr. _____ is entitled to entry of partial summary judgment against her.

II. Defendant Failed to Exercise Reasonable Care as a Matter of Law by Breaching Her Statutory Duty to Obey the Red Light.

"A prima facie case of negligence may be established by proof that an individual violated an applicable statute or ordinance." *Wietzke*, 421 Md. at 388, 26 A.3d at 951-52. "[W]here there is an applicable statutory scheme designated to protect a class of persons which includes the plaintiff, the defendant's duty ordinarily is proscribed by statute or ordinance and the violation of the statute or ordinance is itself evidence of negligence". *E.g. Moore v. Myers*, 161 Md. App. 349, 363, 868 A.2d 954, 962 (2005) (citing *Brooks v. Lewin Reality III, Inc.*, 378 Md. 70, 835, A.2d 616 (2003)). Upon demonstrating: (1) that the statute was created to protect "a specific class of persons which includes the plaintiff," and (2) that the violation of the statute proximately caused the injuries complained of, Defendant's negligence is established. *Id.*

Md. Transportation Code Ann. § 21-201(a) required Defendant _____, the driver of a vehicle, to obey traffic control devices while operating her vehicle. The Transportation Code also required the Defendant, when facing a steady red signal, to "stop at the near side of the

intersection and remain stopped until a signal to proceed is shown" Md. Transportation Code Ann., § 21-202(h)(1). The statutory requirements to obey traffic control devices and to stop at red traffic signals are intended to protect motorists and pedestrians by preventing collisions at intersections. Mr. [redacted] is clearly included in the class of individuals the statute was intended to protect. Defendant's failure to obey the traffic control signal was a proximate cause of Plaintiff's injuries, because if not for Defendant's statutory violation the collision would not have occurred.

Here, Maryland law prescribed Defendant's duty to obey the red traffic signal on Road. The undisputed facts demonstrate that Defendant violated TR § 21-201(a) and § 21-202(h)(1) when she drove into the intersection against the red light controlling traffic on Road. Exh. 2; Exh. 4, P. 63, L. 6; Exh. 5, P. 18, L. 16; Exh. 6. Accordingly, Defendant breached her duty of reasonable care as a matter of law.

III. Defendant was Negligent as a Matter of Law Under the Boulevard Rule Because She Failed to Yield to Traffic on the Favored Roadway.

"The Boulevard Rule has evolved from judicial construction of certain statutory requirements that are relevant to granting the right-of-way in various traffic situations. *Dennard v. Green*, 95 Md. App. 652, 660, 622 A.2d 797, 800-01 (1993) (referring to TR § 21-403), *aff'd*, 335 Md. 305, 643 A.2d 422 (1994). The purpose of the Boulevard Rule is to "give preference to drivers on highways when they encounter other drivers attempting to enter or cross through highways and to protect both the favored and unfavored drivers of motor vehicles lawfully entering an intersection." *Id.* (citations omitted).

The Boulevard Rule applies where:

(1) An intersection of a favored highway and an unfavored intersecting street, at which unfavored street traffic [is] required to stop by some form of traffic control device and yield the right-of-way to traffic approaching on the favored highway, ... [and] (2) a collision occurred as a direct consequence of the entrance of the unfavored vehicle onto the favored highway in disregard of its obligation to yield...

Id.; see also *Clemons v. E. & O. Bullock, Inc.*, 250 Md. 586, 244 A.2d 240 (1968) (applying the Boulevard Rule to a collision in an intersection controlled by traffic lights).

Here, the collision occurred in the intersection of Route 1 and _____ Road, which was controlled by traffic lights facing all four directions of traffic. Exh. 2. As the traffic lights display different green and red signals, Route 1 and _____ Road alternate between the favored road and unfavored road. See Transp. Code. Ann. § 21-202. When facing a green light a driver is traveling a favored road and may proceed, TR § 21-202(b), while drivers facing a red light are on the unfavored road and must stop and yield accordingly, TR § 21-202(h). As such, the Boulevard Rule applies to this case.

While the _____ Road traffic light was red Defendant was on the unfavored road, and was therefore required to stop and yield to vehicles passing through the intersection on Route 1. See TR §§ 21-202(b); 21-202(h). The uncontroverted facts show that Mr. _____ was approaching a green light on Route 1 and that Defendant entered the intersection against a red light. Defendant left the unfavored road, *i.e.* _____ Road, and entered the favored road, *i.e.*, Route 1, in contravention of the Boulevard Rule.

But for Defendant's failure to yield the right of way in accordance with the Boulevard Rule, the collision in this case would not have occurred. Given the application of the Boulevard Rule to the undisputed facts of this case, Defendant _____ failed to exercise reasonable care

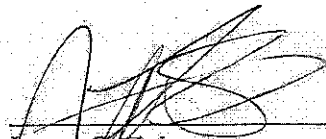
as a matter of law.

CONCLUSION

The undisputed facts of this case make it clear that Defendant [redacted] breached her duty to exercise reasonable care as a matter of law and that Mr. [redacted] is entitled to the entry of partial summary judgment against her on that issue. Defendant breached her duty to exercise reasonable care by entering the intersection against a red light, by depriving Mr. [redacted] of the right-of-way, and by proximately causing the collision. Accordingly, Plaintiffs' Motion for Partial Summary Judgment on the Issue of Defendant [redacted] Failure to Exercise Reasonable Care should be granted.

Respectfully submitted,

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