

SUPREME COURT - STATE OF NEW YORK

Present: HONORABLE ALAN L. HONOROF
Justice

KEMEIL THOMPSON and LISA VARNER, Infants
by their guardian, MARGARET MOULTRIE,

Plaintiff(s),

-against-

CHRISTOPHER J. TILLMAN, NISSAN MOTOR
ACCEPTANCE CORP. and PATRICIA VARNER,

Defendant(s).

TRIAL/IAS, PART 38
NASSAU COUNTY

INDEX No. 33718/95

MOTION SUBMISSION
DATE: March 15, 2000

Motion Sequence No. 008

PATRICIA VARNER,

Plaintiff(s),

-against-

CHRISTOPHER J. TILLMAN and NISSAN MOTOR
ACCEPTANCE CORP.,

Defendant(s).

INDEX No. 15800/96

Motion Sequence No. 001

The following papers read on this motion:

Notice of Motion/ Order to Show Cause	xx
Affirmation in Opposition	x
Replying Affidavits	xx
Briefs: Plaintiff's/Petitioner's	
Defendant's/Respondent's	

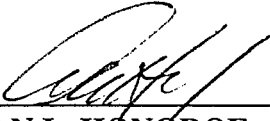
Upon the foregoing papers, the motion of defendant Nissan Motor Acceptance Corp. and the cross motion of Defendant Tillman, both of which seek summary judgment against plaintiffs Lisa Varner and Patricia Varner are granted. Movants shall settle Judgment consistent with the relief granted herein within twenty (20) days thereof.

As to plaintiff Lisa Varner it is noted that in addition to the moving defendants proving their prima facie case for summary judgment, that this plaintiff offered no opposition to either the motion or cross motion. However, it is clear that even when viewing the facts at issue in a light most favorable to the plaintiff Lisa Varner that this plaintiff's allegations relate to soft tissue injuries only and treatments limited largely to whirlpool baths and heating pads. Additionally, the defendants moved upon plaintiff's own medical reports and records (Pagano v Kingsbury, 182 AD2d 268) which demonstrate that summary judgment is appropriate as to this plaintiff. Palmer v Amaker, 11 AD2d 622.

As to defendant Patricia Varner, the foregoing comments also hold true. In addition, her medical reports disclose only bulging discs and confinement to bed for one (1) week and to her home for three weeks following her accident. In total, this plaintiff was seen at the emergency room after the accident, was treated by her own doctor and was sent to a chiropractor whose name she could not remember. In addition, the affirmation offered by her chiropractor discloses soft tissue injuries only and offers bald legal conclusions which fail to raise an issue of fact. The affirmation of plaintiff's doctor concerning a car is conclusory, deficient and incomplete, and as such, is disregarded. Powell v Hurdle, 214 AD2d 720. The issues raised by plaintiff's Bill of Particulars fail to present a triable issue of fact which would require a trial concerning serious injury as contemplated by the New York State Insurance Law. Gaddy v Eyler, 79 NY2d955. Further, opposition papers such as those offered by the subject plaintiff were clearly tailored exclusively to meet statutory standards, are of little probative value and are unhelpful. Padron v Hood, 134 AD2d 718.

In sum, plaintiff Patricia Varner missed a week of work and suffered soft tissue injuries only. As such the relief sought is appropriate under the facts and circumstances of this case. Cullum v Washington, 227 AD2d 370.

E N T E R



ALAN L. HONOROF, J.S.C.

Dated: June 8, 2000