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SHORT FORM ORDER

SUPREME COURT - STATE OF NEW YORK - COUNTY OF NASSAU

PRESENT: HON. JOHN W. BURKE

J.S.C.

-----X
SANTA TORRE and ANTHONY TORRE,

Plaintiff(s),

Sequence #003, 004

Motion Date: 9/6/02

- against -

Index # 013837/00

SHARON ELAINE BRANCH, DOREEN L.
CAMERON, JELANI T. BROWN and
DEVIN C. BROWN,

Defendant(s).

-----X
DOREEN L. CAMERON

Plaintiff,

Index #015043/01

- against -

SHARON ELAINE BRANCH, KEVIN C. BROWN
and JELANI T. BROWN,

Defendants.

-----X

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|---------------------------------|---|
| Notice of Motion | 1 |
| Notice of Cross-Motion | 2 |
| Affirmation in Opposition | 3 |
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Upon the foregoing papers, the motion by Defendant Sharon Branch and cross-motion by Defendant Doreen Cameron for summary judgment in these consolidated cases are granted for the reasons stated herein.

The essential facts concerning this three-car chain-reaction automobile accident are not disputed by any of the parties. The accident occurred at the intersection of Great Neck Road and East Gate Road in Copiague. The Cameron vehicle, in which Plaintiff, Santa Torre, was a passenger, was southbound on Great Neck Road when she was motioned by defendant Branch to make a left-hand turn. The Branch car, completely stopped at the intersection, was hit in the rear by a van driven by Defendant, Jelani

Brown. The Branch car was pushed forcefully into the intersection and collided with the Cameron vehicle.

Defendant Brown, at his deposition, admitted that the accident happened because he "wasn't paying attention" and he apologized to Branch, saying "I'm sorry, it was my fault."

It is well-settled that a rear-end collision with a stopped vehicle establishes *prima facie* that the driver of the moving vehicle was negligent and imposes a duty on him to come forward with an adequate, non-negligent explanation for the accident. *Leonard v. City of New York*, 273 AD2d 205. If the operator of the moving vehicle cannot come forward with evidence to rebut the inference of negligence, the operator of the stationary vehicle is entitled to summary judgment. *Dileo v. Greenstein*, 281 AD2d 586, *Bustillo v. Matturo*, 292 AD2d 554.

It is clear that defendant Branch stopped before the intersection so as not to block the street as cars up ahead were stopped bumper to bumper. While she was stopped her car was rear-ended by defendant Brown's vehicle, who admittedly was not paying attention to the traffic conditions. This collision propelled the Branch vehicle into the intersection and into the Cameron vehicle as it turned onto East Gate. Defendant Brown does not have a non-negligent explanation for rear-ending Branch and, as such, both Branch and Cameron are entitled to summary judgment. Defendant Cameron was clearly not at fault since at the time she started her turn, the Branch car was stopped and had motioned her to proceed.

Thus, defendants Branch and Cameron are granted summary judgment and all claims and cross-claims against them are dismissed. Defendant Branch is directed to serve a copy of this Order upon all other parties within 10 days of the date hereto.

Dated: OCT 16 2002

ENTERED


J. S. C.

OCT 18 2002

**NASSAU COUNTY
COUNTY CLERK'S OFFICE**