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SHORT FORM ORDER

SUPREME COURT OF THE STATE OF NEW YORK, COUNTY OF NASSAU

PRESENT:

**Hon. Burton S. Joseph,
Justice.**

LUIGI DELLAMONICA,

Plaintiff,

- against -

Trial/IAS Part 13
Index No. 13474/2003
Motion No. 002
Motion Date 5/14/2004

ROCCO D. MONFREDO and STEPHANIE
MONFREDO,

Defendants.

Papers Numbered

Notice of Motion, Affirmation & Exhibits Annexed.....	1
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Motion by the attorney for the plaintiff for an Order pursuant to CPLR 3212

granting awarding partial summary judgment to the plaintiff on the issue of liability is granted.

This is a one vehicle collision. Plaintiff was a passenger in the motor vehicle operated by Stephanie Monfredo, when the car hit a telephone pole allegedly causing serious injuries to Luigi Dellamonica. At the time of the accident it was raining and the roads were wet. In her affidavit in opposition Ms. Monfredo opines she was traveling approximately 25 MPH, her motor vehicle "hydroplaned" and "slid off the road and struck a telephone pole."

The defendant's affidavit in opposition fails to set forth a non-negligent

explanation for her failure to keep her vehicle under control. The fact that the ground was wet is not sufficient reason for defendant's loss of control. *See, Stringer v. Peerleas Importess Inc.*, 304 AD2d 413; *Shamak v. Richmond County Ambulance*, 279 AD2d 564 compare *Tarantino v. Vanguard Leasing Co.*, 187 AD2d 422.

Only counsel familiar with this action shall appear for a Compliance Conference on June 25, 2004.

ENTER:

Dated: Mineola, New York
May 21, 2004



J.S.C.

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