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**SHORT FORM ORDER**

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

**PRESENT:**

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

WILLIAM LACEY,

Plaintiff,

- against -

Trial/IAS Part 13  
Index No. 11202/2003  
Motion No. 001 & 002  
Motion Date 12/07/2004

SANTA MATARAZZO,

Defendant.

SANTA MATARAZZO,

Third-Party Plaintiff,

- against -

ROBERT WALFORD,

Third-Party Defendant.

**Papers Numbered**

Notice of Motion, Affirmation & Exhibits Annexed.....	1-2
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Motion (seq. no. 1) by the attorney for Robert Walford, third-party defendant, for an Order granting third-party defendant, Robert Walford summary judgment pursuant to CPLR

3212 dismissing the third-party complaint and all cross-claims on the basis that there is no material issue of fact regarding the liability of Robert Walford is granted.

Motion (seq. no. 2) by the attorney for the plaintiff, William Lacey for an Order pursuant to CPLR 3212 granting summary judgment on the issue of liability as against Santa Matarazzo, the defendant, third-party plaintiff, in favor of the plaintiff William Lacey, is granted.

Plaintiff was a passenger in a Ford Explorer operated by Robert Walford while he was driving west on Route 25A at approximately 8:00 p.m.. The vehicle operated by Santa Matarazzo, traveling east on Route 25A, crossed over the roadway and into the path of the vehicle owned and operated by Robert Walford, striking the left front side of the Walford vehicle. Ms. Matarazzo claims to have been temporarily blinded by the headlights of Walford's vehicle and that the issue of "direct highlight glare exposure" raises a triable issue of fact as to Matarazzo's negligence.

Defendant Matarazzo testified at her Examination Before Trial as follows: (Pages 18-19)

"Q. Sure, describe how the accident happened? A. Okay, 'cause this is like going around the road. There are curves, and I know it curves. The curves - the Lacey car, that he was in had lights. There was an SUV, and the lights were very high. The lights were into my eyes and the lights blinded me, and I though I was continuing on the same road. Basically the lights blinded me. That caused the accident, and I feel that it's very unfair - I was in an unfair advantage by having the SUV lights that are on the driver's in an ordinary car, that the driver's eyes hit the SUV lights."

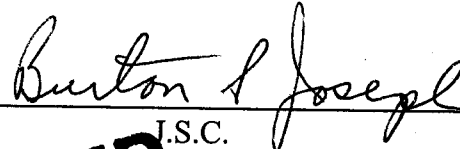
A driver in the situation of Walford cannot reasonably be expected to anticipate

that an automobile will surge across the highway directly into his path. *See, Mattis-Loquiratto-Romano*, 22 AD2d 418. Robert Walford's vehicle remained wholly within the westbound lane of traffic. Matarazzo's vehicle crossed over the roadway into oncoming traffic just before the accident occurred. The opposition papers submitted by Matarazzo do not raise any triable issues of fact as to Walford's negligence. The third-party complaint against Walford is dismissed.

Other than speculation and conjecture, there is no evidence based on the facts or the law to support Matarazzo's claim that direct head lights glare from on coming vehicles will excuse a driver from crossing into on coming traffic. Summary judgment on the issue of liability is granted in favor of the plaintiff against Matarazzo. Robert Walford shall be deleted as a named party from the caption.

**ENTER:**

**Dated:** Mineola, New York  
January 20, 2005

  
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J.S.C.

**ENTERED**  
JAN 24 2005  
NASSAU COUNTY  
COUNTY CLERK'S OFFICE