

SHORT FORM ORDER

SUPREME COURT - STATE OF NEW YORK - NASSAU COUNTY

Present:

HON. ANTHONY L. PARGA
Justice

-----X PART 9

FERESTHE GHATANFAR and BAHMAN
HAKHAMJANI,

Plaintiff,

INDEX NO. 006764/08

MOTION DATE: 5/18/10
SEQUENCE NO: 02

-against-

JANE SEIDEMANN and DAVID SEIDEMANN,
Defendants.

-----X

Notice of Motion, Affirmation & Exs.....	<u>1</u>
Affirmation in Opposition.....	<u>2</u>
Reply Affirmation.....	<u>3</u>

Defendant's motion for an order granting summary judgment pursuant to CPLR 3212 against plaintiffs on the issue of liability is denied.

This personal injury case involves a two car accident which occurred in a parking lot off Northern Boulevard, Manhasset on June 5, 2007. Plaintiff Feresthe Ghatanfar 's car came into contact with the a car owned by David Seidemann and operated by Jane Seidemann at a "T" intersection controlled by a stop sign.

The proponent of a summary judgment motion "must make a prima facie showing of entitlement to judgment as a matter of law, tendering sufficient evidence to demonstrate the absence of any material issues of fact" (*Alvarez v. Prospect Hosp.*, 68 NY2d 320 (1986)). Once

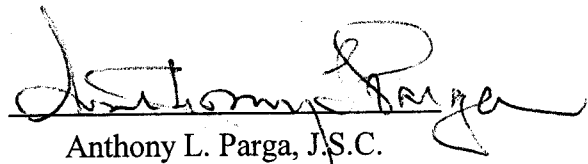
the movant has demonstrated a *prima facie* showing of entitlement to judgment, the burden shifts to the party opposing the motion to produce evidentiary proof in admissible form sufficient to establish the existence of material issues of fact which require a trial of the action (*Zuckerman v. City of New York*, 49 NY2d 557 (1980)).

In support of this application, defendants refer to plaintiff's sworn testimony that defendant Jane Seidemann had a stop sign at a "T" intersection and plaintiff did not have a stop sign. Plaintiff testified that she started to turn left from the parking row onto the road that borders the parallel parking rows. Specifically, "I saw the other driver and I didn't feel that it will hit me. I thought to myself this street is very wide and it would pass."

In opposition, plaintiff argues that there is conflicting testimony of defendant Jane Seidemann's where she admits to seeing plaintiff's car to her left when she was stopped at the stop sign. Plaintiff concludes that she, not having a stop sign, had the right of way entering the "T" intersection and defendant negligently failed to yield.

There are conflicting explanations as to the cause of this accident that present numerous questions of fact concerning the conduct of both drivers which preclude a summary disposition of the issue of liability.

Dated: July 20, 2010


Anthony L. Parga, J.S.C.

ENTERED

JUL 22 2010

**NASSAU COUNTY
COUNTY CLERK'S OFFICE**