

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE  
IN AND FOR NEW CASTLE COUNTY**

ANGELA MURREY,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 07C-08-137 CLS
	)	
TIM J. SHANK and S & W, INC.,	)	
	)	
Defendants.	)	

Date Submitted: April 8, 2011  
Date Decided: April 12, 2011

On Defendants' Motion *in Limine* to Exclude References to a 55MPH Speed Limit.  
**GRANTED.**

**ORDER**

Stephen B. Potter, Esq., 840 N. Union Street, P.O. Box 30409, Wilmington, DE 19805. Attorney for Plaintiff.

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Brett T. Norton, Esq., 300 Delaware Avenue, Wilmington, DE 19801. Attorneys for Defendants.

**Scott, J.**

## Introduction

Before the Court is the Defendants' motion *in limine* to exclude any reference to a 55mph speed limit at the location of the accident. The Court has reviewed the parties' submissions. For the reasons that follow, the Defendants' Motion *in Limine* is **GRANTED**.

## Facts

On March 7, 2006, Plaintiff, William O. Murrey, Jr. ("Mr. Murrey"), was traveling eastbound on East 12th Street ("E. 12th St.") in the City of Wilmington, which is a four lane divided highway approaching the southbound I-495 entrance ramp. The Defendant, Tim J. Shank, was driving a garbage truck westbound on E. 12th St. and allegedly made a left turn into the path of Mr. Murrey's oncoming vehicle. Using skid marks, Officer Connor calculated Mr. Murrey was driving approximately 45 mph in a posted 25 mph zone. Officer Gerald J. Connor ("Officer Connor") of the Wilmington Police Department cited Mr. Murrey for driving at an unsafe speed in violation of 21 *Del. C.* § 4168(a). Mr. Murrey pled guilty to the violation.<sup>1</sup> Mr. Murrey then filed this lawsuit on August 15, 2007, alleging personal injuries as a result of the March 7, 2006 accident.

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<sup>1</sup> There are no details related to the guilty plea. Plaintiff concedes he pled guilty to the offense.

## Discussion

### *Reference to a Speed Limit of 55mph in the Area of the Accident is Irrelevant*

Since Mr. Murrey pled guilty to driving at an unsafe speed in violation of 21 *Del. C.* § 4168(a) and relitigation of that plea is barred by the collateral estoppel doctrine, it is irrelevant to introduce evidence at trial that the speed limit at the location of the accident may be 55 mph. Evidence is relevant when it has “any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.”<sup>2</sup> Evidence that is not relevant is not admissible.<sup>3</sup>

Litigating the speed on E. 12th St. is irrelevant because it will not make the determination of comparative negligence more or less probable. Mr. Murrey already pled guilty to the charge of driving at an unsafe speed. Officer Connor measured the skid marks left by Mr. Murrey and determined that he was driving approximately 45 mph in a posted 25 mph zone when the accident occurred. As a result, Officer Connor issued Mr. Murrey a ticket for driving at an unsafe speed in violation of 21 *Del. C.* § 4168(a). When he pled guilty Mr. Murrey conceded 25 mph is the correct speed limit on E. 12th St. Therefore, it is irrelevant to introduce any evidence that the speed limit on E. 12th St. may be 55 mph.

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<sup>2</sup> D.R.E. 401.

<sup>3</sup> D.R.E. 402.

**Conclusion**

Based on the forgoing, the Defendants' motion *in limine* to exclude any reference to a speed limit of 55 mph in the area of the accident is **GRANTED**.  
**IT IS SO ORDERED.**

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Judge Calvin L. Scott, Jr.