

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

NICOLE MAICHLE,)
)
 Plaintiff,)
)
 v.)
)
 PER SKYMAN,) C.A. No. 08C-08-040 CLS
)
 Defendant.)
)
)
)
)

Date Submitted: November 22, 2011
Date Decided: November 22, 2011

Findings After Bench Trial.

ORDER

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Scott, J.

Introduction

This case arises from an automobile collision between Plaintiff, Nicole Maichle (“Plaintiff”) and Defendant, Per Skyman (“Defendant”). A bench trial was conducted before this Court on November 22, 2011. For the reasons discussed below, the Court finds that Plaintiff is 60% liable and Defendant is 40% liable for this collision.

Findings of Fact

On October 21, 2007, an accident occurred between Plaintiff and Defendant in the Christiana Mall parking lot. It was raining and there was overcast on that day. Both Plaintiff and Defendant were at the mall around lunch time. Plaintiff was driving away from the food court, looking for a place to park. Plaintiff pulled down the isle and then cut across the lane in an attempt to make a left hand turn. Defendant was in the center of the lane instead of on right side of the lane. Defendant’s attention was drawn to oncoming traffic to his left; he never looked right. Plaintiff attempted a left turn without a clear view and not into to the right half of the roadway she was turning into. While attempting this turn, the front left fender of Plaintiff’s vehicle collided with the front left wheel well of Defendant’s vehicle. Plaintiff testified that the first time she saw Defendant’s vehicle

was when both vehicles collided. Thus, she did not have time to avoid the accident.

Discussion

The parties have introduced issues of negligence based on the Rules of the Road and therefore, the Court will apply Delaware traffic laws in this parking lot incident.¹

Plaintiff Made An Improper Left Turn in the Parking Lot.

Pursuant to 21 *Del. C.* § 4152(a)(2), a driver making a left turn on a two way roadway:

shall be made in that portion of the right half of the roadway nearest the center thereof and by passing to the right of such center line where it enters the intersection and, after entering the intersection, the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered.²

Plaintiff made an improper left turn by cutting into the center lane of the parking lot and thus, is in violation of 21 *Del. C.* § 4152(a)(2).

Defendant Did Not Drive on the Right Side of the Road.

Absent an exception set forth in 21 *Del. C.* § 4114(a), motorists are required to drive on the right half of the roadway.³ Defendant

¹ See *Kern v. Autman*, 177 A.2d 525 (Del. Super. Dec. 27, 1961).

² 21 *Del. C.* § 5152(a)(2).

³ 21 *Del. C.* § 4114(a). None of the exceptions set forth in this code section are relevant to this case.

drove in the center of the isle instead of in his lane when Plaintiff's vehicle collided with Defendant's vehicle. Therefore, because Defendant did not drive on the right side of the road, he is in violation of 21 *Del. C.* § 4114(a).

Plaintiff and Defendant Are Guilty of Inattentive Driving.

A motorist is guilty of inattentive driving if they “fail[] to give full time and attention to the operation of the vehicle, and [if they] fail to maintain a proper lookout while operating the vehicle.”⁴

Here, Plaintiff and Defendant are guilty of Inattentive Driving. Plaintiff failed to perceive that Defendant's car was coming when she entered the intersection and she undercut her left hand turn. She failed to maintain a proper lookout while operating her vehicle. Defendant also did not maintain a proper lookout. Defendant's attention was focused to the oncoming cars to his left but he failed to look right. By failing to look for any oncoming cars to his right, he did not maintain a proper lookout while operating his vehicle. Thus, Plaintiff and Defendant are in violation of 21 *Del. C.* § 4176(b).

⁴ 21 *Del. C.* § 4176(b).

Conclusion

Based on the forgoing, this Court finds Plaintiff 60% liable and Defendant 40% liable for this accident.

IT IS SO ORDERED.

/S/CALVIN L. SCOTT
Judge Calvin L. Scott, Jr.