

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

TARYN PRICE,)	C.A. No. N10C-12-220 PLA
Plaintiff,)	
v.)	
)	
CEDRIC SAYLOR,)	
Defendant.)	

Submitted: July 25, 2012
Decided: July 30, 2012

This 30th day of July, 2012, it appears to the Court that:

1. This is a personal injury case arising from an automobile accident. The defendant has filed a motion for summary judgment pursuant to Superior Court Civil Rule 56, asserting that the plaintiff has not presented evidence that the defendant breached a duty to the plaintiff because she cannot explain how the alleged accident happened. Upon review of the record in this case, the Court finds that there is a genuine issue of material fact with respect to the defendant's alleged negligence and that summary judgment would be inappropriate. The defendant's motion for summary judgment is therefore DENIED.

2. On January 5, 2009, Plaintiff Taryn Price ("Price") was a passenger in Defendant Cedric Saylor ("Saylor")'s car as it was traveling on Route 202 southbound towards interstate 95 south. According to the

Complaint, on or near the entrance ramp to interstate 95, Saylor lost control of the vehicle and struck a guard rail. There was no police investigation of the accident. Price alleges that she sustained serious bodily injuries as a result of the accident. In her Complaint, Price alleged that Saylor failed to maintain a proper lookout, operated his vehicle carelessly, and drove at a speed that was unsafe for conditions. Price seeks to recover damages for pain and suffering and medical expenses related to the accident.

3. In his motion for summary judgment, Saylor argues that Price has failed to establish that he breached a duty. In support of his argument, Saylor points out that Price testified at her deposition that she did not know what caused the vehicle to slide and could not recall telling a medical professional that the driver hit a “wet spot” and lost control of his vehicle. Saylor contends that he is entitled to summary judgment because Price cannot say how the accident occurred; only that an accident occurred, and therefore the jury could not find him negligent without engaging in undue speculation. In response, Price argues that the evidence in the record, viewed in the light most favorable to her, will establish that Saylor was negligent in that he drove around a curve at his standard speed of 35 to 40 miles per hour when he should have slowed down because of the damp road at that time. As such, Price contends that the record in this case presents a

question of fact to be resolved by the jury. There was no police investigation in this case.

4. Summary judgment is appropriate where the record presents no genuine issue of material fact and the moving party is entitled to judgment as a matter of law.¹ The Court must view all evidence in the record in the light most favorable to the non-moving party.² Summary judgment motions are disfavored in negligence cases because the fact patterns presented are usually susceptible to more than one interpretation.³

4. Viewed in the light most favorable to the plaintiff, the evidence in the record permits a reasonable jury to find that Saylor was negligent in that he was driving too fast for conditions on the day of the accident. It is not significant, for purposes of a summary judgment motion, that Price does not remember exactly how the accident occurred, especially in light of the fact that Saylor has acknowledged that he was rounding a curve at his usual speed of 35 to 40 miles per hour and that the road was damp. Assuming the jury credits testimony establishing that Saylor was driving too fast for conditions at the time of the accident, the jury would be justified in finding that Saylor breached a duty to exercise reasonable care while driving.

¹ Super. Ct. Civ. R. 56(c).

² *E.g.*, *Merrill v. Crothall-American, Inc.*, 606 A.2d 96, 100 (Del. 1992).

³ *Hadley v. Forgione*, 1985 WL 189339, *1 (Del. Super. Dec. 24, 1985).

5. As Price correctly notes in her brief, Saylor's reliance on *Chilson v. Allstate Insurance Company*,⁴ is misplaced here. Although the Court, acting as the factfinder in a retrial of the case, ultimately concluded based upon the entire record in the case that the plaintiff had failed to prove that the defendant had driven negligently, the Court had also previously denied the defendant's motion for judgment as a matter of law at the conclusion of the presentation of the plaintiff's evidence and at the conclusion of the presentation of all the evidence. The *Chilson* Court noted that, while the evidence of the defendant's negligence was weak, viewed in the light most favorable to the plaintiffs, the evidence was sufficient to create a factual issue for the jury to determine.⁵

6. Analogous reasoning applies here. While the jury may ultimately determine that Saylor did not breach a duty to the plaintiff and therefore was not negligent, on the record presently before the Court, viewed in the light most favorable to the plaintiff, the Court cannot find as a matter of law that Saylor did not act negligently. The plaintiff's evidence calls for no undue speculation by the jury; rather, this is a case which requires the jury to hear the evidence and make a determination as to what happened. In

⁴ 2008 WL 5206777 (Del. Super. Dec. 3, 2008).

⁵ *Id.* at *2.

