22-CV-595

DISTRICT OF COLUMBIA COURT OF APPEALS

FRENNIEJO NIXON

Appellant,

v.

GIOVANNI IPPOLITO, et al.

Appellee, et. al.

APPEAL FROM THE
DISTRICT OF COLUMBIA SUPERIOR COURT

MS. NIXON'S CONSOLIDATED REPLY TO APPELLEES' BRIEFS

Shakétta A. Denson, Esq. (#1045658)

Michael D. Reiter, Esq. (#981814)

CHASENBOSCOLO INJURY LAWYERS
7852 Walker Drive, Suite 300
Greenbelt, Maryland 20770
(301) 220-0050
Attorneys for Ms. Nixon

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III. STATEMENT OF THE CASE

Appellant Frenniejo Nixon (hereinafter "Ms. Nixon") filed her initial Brief and Appendix on December 22, 2022. On January 3, 2023, Ms. Nixon, by leave of the Court, supplemented her Brief and Appendix which Ms. Nixon adopts and incorporates herein by reference. On February 28, 2023, Appellee National General Assurance Company (hereinafter "Appellee National") filed its Brief. On March 6, 2023, Appellee Abron W. Deer (hereinafter "Appellee Deer") filed its Brief. On March 7, 2023, Appellee Geico Casualty Insurance Company (hereinafter "Appellee Geico") filed its Brief. On March 9, 2023, Appellee Gustave Etile (hereinafter "Appellee Etile") and Appellee Giovanni Ippolito (hereinafter "Appellee Ippolito") filed their Briefs. Ms. Nixon, by and through counsels, pursuant to Rule 28(c) of the Rules of the District of Columbia Court of Appeals, hereby files a Consolidated Reply to all Appellees' Briefs.

IV. ARGUMENT

A. The Court Erred in Granting Summary Judgement with Respect to Appellee Geico and Appellee National Despite Clear Disputed Material Facts and a Rebuttable Presumption

Contrary to Appellees' contention in their Briefs, in order to find the uninsured driver, Tyrese A. White (hereinafter "Mr. White"), negligent, Ms. Nixon does not need to prove that Mr. White's impact to the rear of Ms. Nixon's vehicle occurred before Appellee Abron Deer's impact to the rear of Mr. White's vehicle. Likewise, Ms. Nixon does not need to prove the number and order of the impacts to the rear of her vehicle in order for a jury to find Mr. White negligent. Appellees conveniently ignore the presumption of negligence under the law. "A defendant's failure to comply with [traffic] provisions gives rise to a presumption of negligence that he may rebut by proof 'that he did what might reasonably be expected of a person of ordinary prudence, acting under similar circumstances, who desired to comply with the law.'" *Leiken v. Wilson*, 445 A.2d 993, 1003 (D.C. 1982) (citation omitted). There is sufficient evidence to show that Mr. White collided with the rear of Ms. Nixon's vehicle. *App*. at p. 196 -*Ms. Nixon's Deposition Transcript*, L. 11-13; *App.* at p. *358 - Appellee Etile's Deposition Transcript*, L. 1-11. There is also sufficient evidence to show Mr. White violated the District of Columbia Municipal Regulations. Mr. White had a duty to keep a proper distance from the car ahead of him to avoid colliding with it. Under District of

Columbia Municipal Regulations, "**[i]n every event** speed shall be so controlled as may be necessary to avoid colliding with any person, vehicle, or other conveyance on or entering the street or highway in compliance with legal requirements and the duty of all persons to use due care." D.C. Mun. Regs. tit. 18, § 2200.4.[1] The driver of the vehicle Ms. Nixon occupied as a passenger, Appellee Gustavio Etile (hereinafter "Appellee Etile"), testified that the rear of his car, the bumper and the trunk, was damaged as a result of the subject collision. *App*. at p. 361-362, L. 20-5. Viewing the evidence in the light most favorable to Ms. Nixon and all reasonable inferences that can be drawn, the jury can reasonably infer from these facts that Mr. White was negligent in failing to keep a proper lookout and failing to control the speed of his vehicle. Mr. White testified that he was driving 54-55 miles per hour before the car in front of him started slowing down. *App*. at p. 618, L. 7-9. He further testified that he was rear-ended when the vehicle in front of him suddenly slowed down. *App.* at p. 610-611, L. 21- 21. The fact that the collision occurred immediately after Appellee Etile slowed down, clearly shows that Mr. White failed to maintain a proper following distance between his car and the car traveling ahead of him. "Where a party proves the basic facts giving rise to a presumption, it will have satisfied its burden of proving evidence with regard to the presumed fact" and therefore, its adversary's motion should be denied. *Warrick v. Walker*, 814 A.2d 932, 934 (D.C. 2003); "[T]he procedural consequences of the application of a rebuttable presumption are clear. Where a party proves the basic facts giving rise to a presumption, it will have satisfied its burden of proving evidence with regard to the presumed fact and therefore, its adversary's motion for a directed verdict will be denied. *See John W. Strong, 2 McCormick on Evidence*, § 344 at 460–61 (4th ed. 1992). In a civil case, such a presumption requires that the person against whom the presumption is directed assume the burden of going forward with the evidence, although the burden of persuasion remains with the plaintiff. Thus, the Appellee was not put to the task of offering evidence of circumstances that might tend to rebut the presumption." *Id*. In considering the totality of the evidence, including all rational inferences, in the light most favorable to

[1] *See* also D.C. Mun. Regs. tit. 18, § 2201.9 ("The driver of a vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of the vehicles and the traffic upon and the condition of the roadway.")

Ms. Nixon, there is evidence from which a jury could infer that Mr. White was not devoting his full time and attention to his driving, and therefore, he was not exercising reasonable care under the circumstances.

In addition to the presumption that arises from Mr. White's failure to comply with traffic provisions, District of Columbia law also provides a presumption of negligence against the driver of the vehicle that rear-ended another vehicle. "[T]he primary duty to avoid collision as between [the] motorist ahead and the motorist following lies with the motorist behind...." *Pazmino v. WMATA*, 638 A.2d 677, 679 (D.C.1994). "It is true that to establish negligence in a rear-end collision, the plaintiff must show more than just the occurrence of the collision. Nevertheless, 'the negligence of the trailing car colliding with a forward car **is essentially a question for the fact finder to determine and not a matter of law**.'" *King v. Pagliaro Bros. Stone Co.*, 703 A.2d 1232, 1234 (D.C. 1997) (citation omitted) (emphasis added). *See* also, *Warrick*, 814 A.2d at 933; *Gebremdhin v. Avis Rent–A–Car Sys., Inc*. 689 A.2d 1202, 1204 (D.C.1997); *Fisher v. Best*, 661 A.2d 1095, 1099 (D.C. 1995). Appellees National and Geico argue in their Briefs that since this matter consists of several chain rear-end collisions, the presumption of negligence does not apply. This allegation has no legal support as when "an injury can have more than one proximate cause, '[a]ny conduct ... that was a substantial contributing factor in causing the accident [can be] a legal cause of that accident." *King,* 703 A.2d at 1234 (citation omitted). In order for the jury to find Mr. White negligent, Mr. White's impact to the rear of Ms. Nixon's vehicle does not have be the first impact in this chain collision so long as it is a substantial contributing factor to the occurrence of the subject collision. "Proximate cause is generally a factual issue to be resolved by the jury." *Washington Metro. Area Transit Auth. v. Davis*, 606 A.2d 165, 170 (D.C. 1992). Therefore, no matter the number or the sequence of the impacts, it is for jury to decide whether Mr. White was negligent in rear-ending Ms. Nixon's vehicle. Viewing the evidence in the light most favorable to Ms. Nixon and all reasonable inferences that can be drawn, a juror could reasonably conclude that Mr. White failed to use ordinary care to avoid colliding with Ms. Nixon's vehicle and thus, was negligent. Therefore, the Superior Court erred in Dismissing Appellees Geico and National and Ms. Nixon's breach of contract counts against Appellees Geico and National should be reinstated.

B. The Court Erred in Granting Summary Judgement with Respect to Appellee Deer Despite Clear Disputed Material Facts

Appellee Deer alleges that Ms. Nixon failed to show that there is any genuine dispute of material fact precluding judgment as a matter of law for Appellees. However, a review of the statement of facts in Appellees' respective briefs demonstrate that there are genuinely disputed issues of material fact. Each brief alleges different facts in an attempt to avoid any liability. Appellee National General Assurance Company (hereinafter "Appellee National") and Geico Casualty Insurance Company (hereinafter "Appellee Geico") allege in their briefs that the testimony is that Appellee Deer's impact with the uninsured driver, Tyrese A. White's (hereinafter "Mr. White(s)") vehicle, occurred before the impact between Mr. White's vehicle and the vehicle Ms. Nixon occupied as a passenger and therefore, Mr. White cannot be found negligent.[2] On the other hand, Appellee Deer states in his brief that based on Appellee Gustave Etile's (hereinafter "Appellee Etile(s)") testimony, the impacts between the vehicles behind Mr. White occurred *only* after Appellee Etile and Ms. Nixon were rear-ended by Mr. White.[3] These facts alone creates a genuine dispute of material facts which should be left to the trier of fact.

"The doctrine of res ipsa loquitur permits the jury to infer a lack of due care from the mere occurrence of an accident." *Hailey v. Otis Elevator Co.*, 636 A.2d 426, 428 (D.C. 1994). "Res ipsa loquitur may only be invoked where the plaintiff demonstrates that (1) [the occurrence is] of the kind which ordinarily does not occur in the absence of someone's negligence; (2) it must be caused by an agency or instrumentality within the control **(exclusive or joint)** of the defendant; (3) it must not have been due to any voluntary action or contribution on the part of the plaintiff." *Id*. (emphasis added). Here, none of the Appellees dispute that there was an impact to the rear of the vehicle that Ms. Nixon occupied as a passenger. Neither of the Appellees disputes the sequence of the vehicles involved in the chain collision: Ms. Nixon was a passenger in Appellee Etile's vehicle, the first vehicle in the row of vehicles, Mr. White was the

[2] *See* Appellee Geico's Brief, P. 7; *See* also Appellee National's Brief, P. 8.
[3] See Appellee Deer's Brief, P. 15-16 ("Mr. Etile only heard or saw impacts involving the vehicles behind him **after** his vehicle was struck in the rear. Thus, any collision after the single impact to Mr. Etile's vehicle are irrelevant to Ms. Nixon's claims of injury.")

driver of the second vehicle in the row, Appellee Deer was the driver of the third vehicle in the row and Appellee Giovanni Ippolito (hereinafter "Appellee Ippolito") was the driver of the last vehicle in the row. No Appellee alleges there was any other party, not already named in the suit, involved that was responsible for Ms. Nixon's claim. In fact, Appellee Deer concedes that he rear-ended Mr. White's vehicle and Appellee Ippolito concedes that he rear-ended Appellee Deer's vehicle. The only person that does not remember whether he impacted the vehicle in front of him is Mr. White. Yet again, no one disputes that there was in fact an impact to the rear of the vehicle Ms. Nixon occupied as a passenger. The vehicle Ms. Nixon occupied as a passenger was rear-ended, and there were three vehicles behind her, two of which conceded they rear-ended each other and there is testimony from two parties that the car directly behind Ms. Nixon, Mr. White, impacted the rear of the vehicle occupied by Ms. Nixon. *App*. at p. 196 -*Ms. Nixon's Deposition Transcript*, L. 11-13; *App.* at p. *358 - Appellee Etile's Deposition Transcript*, L. 1-11. All the elements of *res ipsa loquitur* are met here. A vehicle will not get rear-ended in the absence negligence of someone. Ms. Nixon was simply a passenger and did not contribute to the collision in any way. On the other hand, all the Appellees were drivers of their vehicles and had exclusive control of their vehicles and their actions behind the wheel when they collided with each other.

Appellee Deer alleges in his brief that "if multiple defendants are involved, the plaintiff must show "joint control" of the instrumentality causing injury" and cited to *Greet v. Otis Elevator Co.*, 187 A.2d 896, 898 (D.C. 1963). *Greet* is a case regarding the malfunction of an elevator and the dispute was over the issue of which defendant had control over the elevator at the time of the incident. *Id*. at 898. The facts of *Greet* are not at all analogous to the facts here. Here, each Appellee was the driver of his vehicle having exclusive control of his action(s) behind the wheel when they collided with other Appellees' respective vehicles. All the other cases cited by Appellee Deer in an attempt to persuade this Court that the doctrine of *res ipsa loquitor* does not apply when there are multiple defendants, are from other jurisdictions and are in no way binding in the District of Columbia. The law of the District of Columbia is clear regarding *res ipsa loquitur* doctrine and there is sufficient applicable precedent that makes the inquiry into other jurisdictions' common law unnecessary. In fact, the District of Columbia Court of Appeals in *Greet* held

that " '[i]t is not necessary for the applicability of the res ipsa loquitur doctrine that there be but a single person in control of that which caused the damage.' The doctrine may apply against two defendants if there is joint control and in a proper case **it is for the jury to say whether either or both had control**." *Greet*, 187 A.2d at 898 (citation omitted) (emphasis added). "[r]es ipsa loquitur becomes irrelevant only when the manner in which the defendant was allegedly negligent is 'completely elucidated' ... and 'there is nothing left for the jury to infer regarding the cause of the accident.' *see also Hailey*, 636 A.2d at 429 ('[R]es ipsa loquitur asks the jury to consider a question of fact on which little evidence has been presented[.]')" *Jones v. NYLife Real Estate Holdings*, LLC, 252 A.3d 490, 501 (D.C. 2021). Here, there are sufficient facts for the jury to infer regarding Appellees' respective negligence under the *res ipsa loquitor* doctrine.

Finally, Appellee Deer's allegation that Ms. Nixon did not argue *res ipsa loquitor* until she filed her Motion for Reconsideration of the Order for Summary Judgment, is simply not true. Ms. Nixon argued the *res ipsa loquitor* doctrine from the beginning and in her Opposition to Appellees' Motion for Summary Judgment. *See App*. at p. 72 -*Opposition to Appellee Deer's Motion for Summary Judgment*; App. at p. 84 -*Opposition to Appellee Etile's Motion for Summary Judgment*; App. at p. 97 -*Opposition to Appellee Geico's Motion for Summary Judgment*. Viewing the evidence in the light most favorable to Ms. Nixon and all reasonable inferences that can be drawn, a jury could reasonably conclude that Appellee Deer failed to use ordinary care to avoid the collision and was negligent. Therefore, the Superior Court erred in dismissing Ms. Nixon's negligence counts against Appellee Deer and that count should be reinstated.

C. The Court Erred in Granting Summary Judgement with Respect to Appellees Ippolito Despite Clear Disputed Material Facts

Appellee Ippolito alleges that Ms. Nixon failed to show that there is any genuine dispute of material fact precluding judgment as a matter of law for Appellee Ippolito. Contrary to Appellee Ippolito's allegation, there is a genuine dispute of material facts as to the number and sequence of the impacts in this chain collision. A review of the statement of facts in Appellees' briefs reveals that there are conflicting testimonies creating a genuine dispute of material facts. Appellee National General Assurance Company (hereinafter "Appellee National") and Geico Casualty Insurance Company (hereinafter "Appellee Geico")

allege in their briefs that the testimony is that Appellee Abron Deer's (hereinafter " Appellee Deer(s)") impact with the uninsured driver, Tyrese A. White's (hereinafter "Mr. White(s)") vehicle, occurred **before** the impact between Mr. White's vehicle and the vehicle Ms. Nixon occupied as a passenger.[4] On the other hand, Appellee Deer states in his brief that based on Appellee Gustave Etile's (hereinafter "Appellee Etile(s)") testimony, the impacts between the vehicles behind Mr. White occurred **only after** Appellee Etile and Ms. Nixon were rear-ended by Mr. White.[5] These facts alone create a genuine dispute of material facts as to the sequence of the impacts and whether Appellee Ippolito was negligent.

Neither of the Appellees disputes the sequence of the vehicles involved in the chain collision: Ms. Nixon was a passenger in Appellee Etile's vehicle, the first vehicle in the row of vehicles, Mr. White was the driver of the second vehicle in the row, Appellee Deer was the driver of the third vehicle in the row and Appellee Ippolito was the driver of the last vehicle in the row. Appellee Ippolito concedes that he rear-ended Appellee Deer's vehicle and Appellee Deer concedes that he rear-ended Mr. White's vehicle. To be sure, Appellee Ippolito did not hear or see any collisions in front of him before he rear-ended Appellee Deer. *See App*. at P. 449-450. Mr. White testified that there was no impact between his vehicle and the vehicle Mr. Nixon was a passenger in, before he was rear-ended by Appellee Deer. *Id.* at P. 615, L. 8-17. Appellee Deer testified that the impact to the rear of his vehicle happened instantaneously after the impact to the front of his vehicle and his vehicle was still in contact with Mr. White's vehicle when he was struck from behind by Appellee Ippolito. *Id*. at P. 549, L. 18-21; and P. 563, L. 12-16. "It is axiomatic that questions of credibility are for the jury." *Kinard v. United States*, 416 A.2d 1232, 1235 (D.C.1980). Based on all the issues of material fact outlined above, including all reasonable inferences that can be drawn, it must be left to the jury to determine the negligence of Appellee Ippolito, who admitted he rear-ended the vehicle in front of him and was involved in the subject chain collision.

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[4] *See* Appellee Geico's Brief, P. 7; *See* also Appellee National's Brief, P. 8.
[5] See Appellee Deer's Brief, P. 15-16 ("Mr. Etile only heard or saw impacts involving the vehicles behind him **after** his vehicle was struck in the rear. Thus, any collision after the single impact to Mr. Etile's vehicle are irrelevant to Ms. Nixon's claims of injury.")

In his brief, Appellee Ippolito adopts and incorporates the argument mentioned in Appellee Deer's brief regarding the doctrine of *res ipsa loquitor*. As discussed in length in the Reply to Appellee Deer's Brief, the authorities cited by Appellee Deer in an attempt to persuade this Court that the doctrine of *res ipsa loquitor* does not apply when there are multiple defendants, are from other jurisdictions and are in no way binding in the District of Columbia. The law of the District of Columbia is clear regarding *res ipsa loquitur* doctrine and there is sufficient applicable precedent that makes the inquiry into other jurisdictions' common law unnecessary. In fact, the District of Columbia Court of Appeals in *Greet v. Otis Elevator Co.* held that " '[i]t is not necessary for the applicability of the res ipsa loquitur doctrine that there be but a single person in control of that which caused the damage.' The doctrine may apply against two defendants if there is joint control and in a proper case **it is for the jury to say whether either or both had control**." 187 A.2d 896, 898 (D.C. 1963) (citation omitted) (emphasis added). "[r]es ipsa loquitur becomes irrelevant only when the manner in which the defendant was allegedly negligent is 'completely elucidated' ... and 'there is nothing left for the jury to infer regarding the cause of the accident.' *see also Hailey*, 636 A.2d at 429 ('[R]es ipsa loquitur asks the jury to consider a question of fact on which little evidence has been presented[.]')" *Jones v. NYLife Real Estate Holdings*, LLC, 252 A.3d 490, 501 (D.C. 2021). Here, there are sufficient facts for the jury to infer regarding Appellees' respective negligence under the *res ipsa loquitor* doctrine. Viewing the evidence in the light most favorable to Ms. Nixon and all reasonable inferences that can be drawn, a jury could reasonably conclude that Appellee Ippolito failed to use ordinary care to avoid the collision and was negligent. Therefore, the Superior Court erred in dismissing Ms. Nixon's negligence counts against Appellee Ippolito and that count should be reinstated.

D. The Court Erred in Granting Summary Judgement with Respect to Appellee Etile Despite Clear Disputed Material Facts

"'Automobile collisions … nearly always present questions of fact. The credibility of witnesses must be passed on, conflicting testimony must be weighed, and inferences must be drawn. From this conflict and uncertainty the trier of facts, whether judge or jury, must determine the ultimate facts of the case. Only in exceptional cases will questions of negligence, contributory negligence, and proximate cause pass from

the realm of fact to one of law.'" *Majeska v. D.C.*, 812 A.2d 948, 950 (D.C. 2002) (citation omitted). To survive the motion for summary judgment, Ms. Nixon did not need to prove her case with certainty. As evident even from Appellee Etile's brief, there is conflicting testimony as to whether Appellee Etile's vehicle was at a complete stop or moving when the collision occurred. Ms. Nixon, the passenger in Appellee Etile's vehicle, testified that their vehicle was at a complete stop when the collision occurred. *See App*. at P. 196, L. 17-19; and App at P. 272, L. 7-10. On the other hand, Appellee Etile testified that his vehicle was still moving when he was rear-ended. *See App*. at P. 354, L.3-7. Appellee Etile testified that the crash happened as follows:

> "Q. Tell me what you remember and how this crash happened.
> A. I was driving northbound, trying to go to the Mall, and a car in the right lane, changed lane, cut in front of me. And I reduced my speed to avoid colliding the car that just had cut in front of me. **That's when** people hit me from back." *See App*. at P. 353, L. 5-11 (emphasis added).

Appellee Etile by his own testimony, viewing the evidence in the light most favorable to Ms. Nixon, could be found negligent by the trier of fact for stopping short and braking suddenly and failing to keep a proper lookout and control his vehicle to avoid a collision. This testimony creates a genuine issue of material fact, from which different reasonable inferences could be drawn viewing the evidence in the light most favorable to Ms. Nixon and thus precluding the granting of summary judgment with respect to whether Appellee Etile was negligent.

Appellee Etile alleges in his brief that Ms. Nixon's "alleged factual dispute [that Appellee Etile stopped short and sudden] is immaterial, however, because Mr. White, who was operating the vehicle directly behind Mr. Etile's vehicle, testified that he did not hit Mr. Etile's car at all, and that he could still see the rear tires of Mr. Etile's car at the time that Mr. White's vehicle was impacted from behind."[6] Throughout his brief, Appellee Etile completely ignored and failed to mention his own testimony that he was in fact rear-ended by the uninsured driver, Tyrese A. White (hereinafter "Mr. White"). Appellee Etile

[6] *See* Appellee Etile's Brief, P. 9.

testified in his deposition that after he was hit from behind, he saw in his rearview more than two impacts behind him and saw that the car behind him, which was Mr. White, was hit again:

> "Q. Did you see or hear any other crashes, collisions, or impacts, after you were hit in the back?
>
> A. Yes.
>
> Q. Did you hear them or did you see them in your rearview?
>
> A. I saw -- I saw them in my rearview.
>
> Q. Okay. How many did you see?
>
> A. I would say more than -- more than --more than two -- definitely, more than two. I couldn't -- I couldn't get out because police officers told me to remain in the car.
>
> Q. **So you were hit in the back. Did you see if the vehicle that hit you was hit?**
>
> **A. I think so.**
>
> **Q. Did you see that they were hit?**
>
> **A. Yes."** *See App*. at P. 356, L. 2-18. (emphasis added)

Any theory that the collision actually initiated by Mr. White colliding to the rear of Appellee Etile's vehicle comes from Appellee Etile's actual testimony, however, Appellee Etile chose not to mention that in his brief and if fact believes that such allegation is nothing more than a "pure speculation".[7] These facts alone create a genuine dispute of material facts which should be left to the jury to determine.

Mr. White, the driver traveling directly behind Appellee Etile, alleges that he lost consciousness after he was rear-ended by Appellee Abron Deer and therefore, has no recollection of what happened after he blacked out and whether he felt one impact or more. *See App*. at P. 585, L 3-10; *App*. at P. 586, L. 7-16, and *App*. at P. 616-617, L. 20-3. Mr. White has further denied that his vehicle made any contact with Appellee Etile's vehicle before or after he was rear-ended by Appellee Abron Deer. *See App*. at P. 587, L. 8-17. Mr. White's testimony is in direct conflict with Appellee Etile and Ms. Nixon's testimonies as they both testified that they were rear-ended by Mr. White's vehicle. *See* App. at 358, L. 1-11; and App. at P. 196, L. 11-13. "It is axiomatic that questions of credibility are for the jury." *Kinard v. United States*, 416 A.2d 1232, 1235 (D.C.1980).

[7] *See* Appellee Etile's Brief, P. 9.

Furthermore, an independent witness testified that the first vehicle in line initiated the chain collision because they suddenly stopped:

> "Q. Okay. The SUV that you saw, the initial SUV, do you know -- was that the same car your brother hit or was that somewhere farther up the road?
> A. That was far from my brother. That was probably the first car, then that make the whole accident I believe.
> Q. Okay.
> A. He just stopped in the middle of the -- and he just stopped in the middle of the street."
> *See App*. at P. 675.

Viewing the evidence in the light most favorable to Ms. Nixon and all reasonable inferences that can be drawn, a jury could reasonably conclude that Appellee Etile failed to use ordinary care to avoid the collision and was negligent. Therefore, the Superior Court erred in dismissing Ms. Nixon's negligence counts against Appellee Etile and that count should be reinstated.

V. CONCLUSION

WHEREFORE, for the foregoing reasons, Ms. Frenniejo Nixon requests that the District of Columbia Court of Appeals Vacate and Reverse the decisions of the Superior Court and re-instate the case as to all Appellees in this matter.

Respectfully submitted,
CHASENBOSCOLO, INJURY LAWYERS

By: 

Shakétta A. Denson, Esq. (#1045658)
Michael D. Reiter, Esq. (#981814)
ChasenBoscolo Injury Lawyers
7852 Walker Drive, Suite 300
Greenbelt, Maryland 20770
(301) 220-0050
(301) 474 1230 (fax)
SDenson@chasenboscolo.com
Counsel for Frenniejo Nixon

XI. CERTIFICATE OF SERVICE

I, Shakétta A. Denson, hereby certify that on May 31, 2023, I emailed/mailed a copy of the foregoing Consolidated Reply to Appellees' Briefs to the following individuals:

Anne K. Howard, Esq.,
Alane Tempchin, Esq.
12300 Twinbrook Parkway, Suite 540
Rockville, MD 20852
Counsel for Appellee Deer

Jennifer L. Servary, Esq.
Wilson Forte LLP
1115 Professional Court
Hagerstown, Maryland 21740
Counsel for Appellee Ippolito & Appellee Chayka

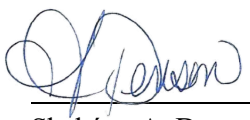
Michael J. Carita, Esq.
1010 Cameron St.
Alexandria, VA 22314
Counsel for Appellee National General

Jennifer H. Fitzgerald, Esq.
Diana Kobrin, Esq.
The Law Offices of Frank F. Daily, P.A.
11350 McCormick Road
Executive Plaza III, Suite 704
Hunt Valley, MD 21031*Counsel for Appellee Etile*

Jack D. Lapidus, Esq.
6106 MacArthur Blvd., Ste. 110
Bethesda, MD 20816
Counsel for Appellee Geico

Tyrese White
1201 Oak Dr., S.E., Apt. A3
Washington, DC 20032
Pro Se Third Party Appellee

Donnita Bennett
1201 Oak Dr., S.E., Apt. A3
Washington, DC 20032
Pro Se Third Party Appellee



Shakétta A. Denson, Esq.

District of Columbia
Court of Appeals

REDACTION CERTIFICATE DISCLOSURE FORM

Pursuant to Administrative Order No. M-274-21 (filed June 17, 2021), this certificate must be filed in conjunction with all briefs submitted in all cases designated with a "CV" docketing number to include Civil I, Collections, Contracts, General Civil, Landlord and Tenant, Liens, Malpractice, Merit Personnel, Other Civil, Property, Real Property, Torts and Vehicle Cases.

I certify that I have reviewed the guidelines outlined in Administrative Order No. M-274-21 and Super. Ct. Civ. R. 5.2, and removed the following information from my brief:

1. All information listed in Super. Ct. Civ. R. 5.2(a); including:

   - An individual's social-security number
   - Taxpayer-identification number
   - Driver's license or non-driver's' license identification card number
   - Birth date
   - The name of an individual known to be a minor
   - Financial account numbers, except that a party or nonparty making the filing may include the following:

     (1) the acronym "SS#" where the individual's social-security number would have been included;
     (2) the acronym "TID#" where the individual's taxpayer-identification number would have been included;
     (3) the acronym "DL#" or "NDL#" where the individual's driver's license or non-driver's license identification card number would have been included;
     (4) the year of the individual's birth;
     (5) the minor's initials; and
     (6) the last four digits of the financial-account number.

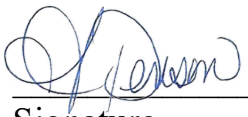
2. Any information revealing the identity of an individual receiving mental-health services.

3. Any information revealing the identity of an individual receiving or under evaluation for substance-use-disorder services.

4. Information about protection orders, restraining orders, and injunctions that "would be likely to publicly reveal the identity or location of the protected party," 18 U.S.C. § 2265(d)(3) (prohibiting public disclosure on the internet of such information); *see also* 18 U.S.C. § 2266(5) (defining "protection order" to include, among other things, civil and criminal orders for the purpose of preventing violent or threatening acts, harassment, sexual violence, contact, communication, or proximity) (both provisions attached).

5. Any names of victims of sexual offenses except the brief may use initials when referring to victims of sexual offenses.

6. Any other information required by law to be kept confidential or protected from public disclosure.



Signature

22-CV-595
Case Number(s)

Shaketta A. Denson
Name

05/31/2023
Date

SDenson@Chasenboscolo.com
Email Address