

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR KENT COUNTY**

LISA MYERS and BERNARD	:	
MYERS, husband and wife,	:	C.A. No: K14C-03-013 RBY
	:	
Plaintiffs,	:	
	:	
v.	:	
	:	
LIBERTY MUTUAL FIRE	:	
INSURANCE COMPANY,	:	
	:	
Defendant.	:	

Submitted: September 23, 2015

Decided: October 5, 2015

*Upon Consideration of Defendant's
Motion in Limine*
GRANTED

ORDER

Keith E. Donovan, Esquire, Morris James, LLP, Dover, Delaware for Plaintiffs.

David L. Baumberger, Esquire, Law Offices of Chrissinger & Baumberger,
Wilmington, Delaware for Defendant.

Young, J.

DECISION

On November 14, 2012 at around 6:30 p.m., Lisa Myers (“Plaintiff” and together with her husband “Plaintiffs”) was struck by a car driven by Lena McFarlane (“McFarlane”) while attempting to cross Route 299 in Odessa, Delaware. McFarlane’s liability insurance company paid Plaintiffs the \$50,000 policy limit. Plaintiffs are insured by a policy with Liberty Mutual (“Defendant”). Plaintiffs filed a liability only suit in March 2014 against Defendant to recover excess damages.

By their Motion in Limine, Defendant moves to exclude photographs and reference to a crosswalk which Plaintiff claims to have been using at the time of the accident. Defendant’s position is that the area of the accident is not a crosswalk and that photographs and reference to a crosswalk will be overly prejudicial at trial. Plaintiffs argue that the area is a crosswalk and that the photographs and references to a crosswalk are relevant to their case.

Plaintiffs seek to invoke liability based on Plaintiff’s use of a crosswalk when the accident occurred. The existence of a crosswalk is an issue properly reserved to an expert.

Certainly, the presence or absence of a crosswalk, in effect as such at the time of the incident, is tremendously significant to this case. The photos of the critical area present a road marking picture that is equivocal (“of uncertain meaning”) or ambiguous (“open to various interpretations”) a vague (“not definite in impact”) or some combination of all. That circumstance could be argued by each side to support its position. However, it could very well be a straight forward

