

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

FLOYD R. WHEELER, JR.,	)	
	)	
Plaintiff,	)	C.A. No. N25C-08-119 CEB
	)	
v.	)	
	)	
	)	
CICESA SLOWE-FREEMAN, KATHY J. PHIPPS, and PHC MEADOWWOOD LLC,	)	TRIAL BY JURY OF TWELVE
	)	DEMANDED
	)	
	)	
Defendants.	)	

ORDER

This 29th day of October 2026, upon consideration of the Delaware Superior Court Rules of Civil Procedure, the relevant case law, and the record in this matter, the Court finds as follows:

1. Defendant Kathy J. Phipps (“Phipps”) was driving a van owned by her employer, PHC Meadowwood LLC (“Meadowwood”).¹ Floyd R. Wheeler, Jr. (“Plaintiff”) was a restrained passenger in the van.

2. While so engaged, the Meadowwood van collided with a vehicle operated by Defendant Cicesa Slowe-Freeman (“Slowe-Freeman”) at an intersection

¹ Compl. ¶1

in Wilmington.² This particular intersection has 4-way stop signs. How do 2 vehicles come to a stop at a stop sign and then proceed into an intersection collision? Perhaps one did not stop. Or perhaps one stopped and did not see the other one stopped before they both proceeded to crash into each other. Who, pray tell, has the right of way at a 4 way stop sign? It is hardly surprising that each defendant believes the other caused the crash. Plaintiff claims injuries from the collision and has brought this action against Phipps, Meadowwood, and Slowe-Freeman.³

3. Defendants Phipps and Meadowwood filed an answer and cross-claimed against Defendant Slowe-Freeman, claiming that Slowe-Freeman is solely responsible for the accident and therefore Phipps is entitled to contribution and/or indemnification.⁴ To the great surprise of absolutely no one, Slowe-Freeman filed an answer and cross claim against Phipps, blaming her entirely for the accident and seeking contribution and/or indemnification.

4. Discovery commenced and is ongoing. Thus far, Phipps – the Meadowwood driver – has been deposed and testified that her driving was beyond reproach. Slowe-Freeman has not yet been deposed, but by her interrogatory answers, she is not at fault for the accident either. This is frequently called a factual

² *Id.*

³ *Id.*

⁴ Defs. Kathy J. Phipps and PHC Meadowwood LLC's Ans. to Pl.'s Compl. with Affirmative Defs. and Cross-cls. (D.I. 7).

dispute. Fact dispute or not, and despite not yet being deposed, Slowe-Freeman has filed for summary judgment.⁵

6. To prevail in a negligence action, the plaintiff must show by a preponderance of the evidence that a defendant's "negligent act or omission breached a duty of care owed to plaintiff in a way that proximately caused plaintiff's injury."⁶ Because the determination of negligence ordinarily turns on the particular facts and circumstances of each case, the determination of parties' negligence is almost always a question of fact reserved for the jury.⁷

7. The Court is not persuaded that this case falls within the narrow category of negligence actions amenable to summary adjudication. Discovery remains ongoing, and the record contains contradicting assertions regarding the cause of the accident. The right-of-way depends heavily on the circumstances under which the vehicles approach and enter the intersection.⁸

8. While Slowe-Freeman's asserts that she had the right of way, but that alone does not establish that she exercised reasonable care under the circumstances.

⁵ Def. Cicesa Slowe-Freeman's Mot. for Summary J. (D.I. 32).

⁶ *Duphily v. Delaware Elec. Co-op., Inc.*, 662 A.2d 821, 828 (Del. 1995) (citation omitted).

⁷ *Triebel v. Sabo*, 714 A.2d 742, 745 (Del. 1998); *see also, Lugaro v. Guercio*, 2022 WL 1112288 at *3 (Del. Super. 2022) ("As an initial matter, the Court notes that negligence cases do not readily lend themselves to disposition through summary judgment.").

⁸ *Wootten v. Kiger*, 226 A.2d 238, 240 (Del. 1967) ("A right of way is not absolute; it is relative only. Regardless of possession of right of way, a motorist must exercise continuously such due care as may be required by the situation confronting him in order to prevent injury to himself and others.").

The facts surrounding the drivers' conduct upon approaching the intersection, including whether either driver maintained a proper lookout or could have avoided the collision, remain insufficiently developed. These unresolved questions bear directly on whether Slowe-Freeman breached the duty of care and whether such breach caused the collision. While Slowe-Freeman seeks the fast lane to judgment, the state of the record calls for Slowe-Freeman to slow down. The Court will review her motion more critically when she has demonstrated a right to remove the case from a jury's consideration.

9. Accordingly, Slowe-Freeman's motion for summary judgment is **DENIED** without prejudice to refile if and when the completed discovery demonstrates the lack of any genuine issue of material fact.

IT IS SO ORDERED.

/s/ Charles E. Butler
Charles E. Butler, Resident Judge

cc: All Counsel of Record via File & ServeXpress