IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

NEELA DEVI KUMAR ALI, et al.	:	CIVIL ACTION
v.	:	
P.T. LYONS, et al.	:	NO. 03-6947

MEMORANDUM AND ORDER

McLaughlin, J. March 22, 2006

This case arises out of a car accident that occurred in Haverford, Pennsylvania in 2001. Sophia Devi Ali was killed when the car she was driving collided with a van driven by defendant P.T. Lyons, and owned by Mr. Lyons' company, defendant Scientific Window Cleaning, Inc. Neela Devi Kumar Ali and Ahmend Ali, Ms. Ali's parents, brought suit for wrongful death. Mrs. Ali also brought a survival action in her capacity as the Administratrix of Ms. Ali's estate.

The defendants' Motion for Summary Judgment (Doc. No. 68) and the plaintiffs' Cross-Motion for Partial Summary Judgment on Liability (Doc. No. 71) are before the Court. Because there are genuine questions of material fact outstanding in the case, the Court will deny both motions.

I. Background and Procedural History

The following facts are undisputed. On November 29, 2001, Ms. Ali was driving southbound on Darby Road, a two-lane road, in Haverford Township. The road was wet. Ms. Ali lost control of her vehicle while negotiating a curve and collided with the defendants' van, which was traveling northbound. (Pls' Ex. H (Police Report); Pls' Mem. at 1, Defs' Mem. at 7.)

The plaintiffs initially filed suit against several defendants in the United States District Court for the Eastern District of New York. After the case was transferred to this District, the Court dismissed all the defendants except Mr. Lyons and Scientific Window Cleaning, Inc.

II. Analysis

The parties agree that the plaintiffs' claims sound in negligence, and that Pennsylvania law applies to those claims. See Defs' Mem. at 10, Pls' Mem. at 2, 7. To establish negligence under Pennsylvania law, the plaintiffs must demonstrate that: (1) the defendants owed a duty of care to Ms. Ali; (2) the defendants breached that duty; (3) the breach resulted in injury to Ms. Ali; and (4) Ms. Ali suffered actual loss or damage. See Martin v. Evans, 711 A.2d 458, 461 (Pa. 1998).

The defendants move for summary judgment on the ground that Ms. Ali's own negligence was the sole cause of her injuries.

The plaintiffs move for partial summary judgment on liability, on the ground that Mr. Lyons' violation of various traffic laws constituted negligence per se. The Court will address each motion in turn.

A. Defendants' Motion for Summary Judgment

The Court will deny the defendants' motion for summary judgment because the plaintiffs have raised a genuine question of material fact as to whether Mr. Lyons negligently turned his vehicle into the opposite lane just before colliding with Ms. Ali's car.

The United States Court of Appeals for the Third Circuit has held that the duty of care owed in a negligence action arising from a car accident in Pennsylvania is "at least" that established by the Pennsylvania Vehicle Code. Klein v. Hollings, 992 F.2d 1285, 1291 (3d Cir. 1993). The Pennsylvania Vehicle Code provides, in relevant part:

> Drivers of vehicles proceeding in opposite directions shall pass each other to the right and, upon roadways having width for not more than one line of traffic in each direction, each driver shall give to the other at least one-half of the main-traveled portion of the roadway as nearly as possible.

75 Pa. C.S. § 3302.

Assuming that Mr. Lyons had a duty to stay in his own lane, and viewing the facts in the light most favorable to the plaintiffs, the plaintiffs have raised a genuine question of

material fact as to whether Mr. Lyons breached that duty by turning his van into the opposite lane immediately before colliding with Ms. Ali's car.[1] According to the police report, "[Mr. Lyons] stated he took evasive action by turning the vehicle to the left in an attempt to avoid impact with [Ms. Ali's car]." The police diagram and photographs of the accident show that the front left corner of the defendant's van had crossed over into the opposite lane. (Pls' Ex. H (Police Report); Pls' Ex. I (Police Diagram); Pls' Ex. K (Accident Photographs)).

Other evidence in the record suggests that Mr. Lyons may not have turned his car to the left. (Pls' Ex. C (Patrick Lyons' 11/14/03 Statement); Pls' Ex. M (Druecker Report).) The plaintiffs have pointed to sufficient facts in the record to survive a motion for summary judgment, however.

B. Plaintiffs' Motion for Partial Summary Judgment on Liability

The plaintiffs have moved for partial summary judgment on the ground that Mr. Lyons violated various sections of the Pennsylvania Vehicle Code, which constitutes negligence per se.

---

[1] On a motion for summary judgment, a court must view the evidence and draw reasonable inferences therefrom in the light most favorable to the party opposing summary judgment. See, e.g., Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 255 (1986). Summary judgment is proper if the pleadings and other evidence on the record "show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." Fed. R. Civ. P. 56(c).

The Court will deny the plaintiffs' motion because there are genuine questions of material fact as to whether Mr. Lyons violated any of the code sections.

Sections 3302, 3306, and 3311 of the Vehicle Code generally require drivers to remain in their own lane. Now viewing the evidence in the light most favorable to the defendants, the defendants have raised a genuine issue of material fact as to whether Mr. Lyons violated these code sections by driving into the opposite lane. Over one year after the accident, Mr. Lyons made a written statement in which he claimed that he never deviated from his lane. Moreover, the defendants' expert has opined that Mr. Lyons did not turn to the left, and that the final resting position of his van was caused by the impact of the accident. (Pls' Ex. C (Patrick Lyons' 11/14/03 Statement); Pls' Ex. M (Druecker Report).)

Sections 3361, 3362, and 3365 of the Vehicle Code generally require drivers to obey speed limits and to drive at a safe speed that will "permit the driver to bring his vehicle to a stop within the assured clear distance ahead," taking into account the road and weather conditions. In their memorandum in opposition to the defendants' motion, the plaintiffs calculate Mr. Lyons' speed to have been 79.5 miles per hour. The Court is not certain that this calculation is supported by the evidence.

Even if the Court were to consider this calculation,

however, the defendants have pointed to sufficient facts in the record to raise a genuine question as to whether Mr. Lyons was driving at an excessive speed. Mr. Lyons has stated that he "made sure to do the speed limit which was 30-35 mph." The police report did not cite Mr. Lyons for driving over the speed limit, even though it noted that Ms. Ali had been "driving too fast for conditions" and violated Section 3361 of the Vehicle Code. (Pls' Ex. C (Patrick Lyons' 11/14/03 Statement); Pls' Ex. H (Police Report) at 3, 6.)

Because there are genuine questions of material fact concerning liability remaining in the case, the Court will not grant summary judgment in favor of either party.

An appropriate Order follows.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

NEELA DEVI KUMAR ALI, et al.	:	CIVIL ACTION
v.	:	
P.T. LYONS, et al.	:	NO. 03-6947

ORDER

AND NOW, this 22nd day of March, 2006, upon consideration of the defendants' Motion for Summary Judgment (Doc. No. 68), the plaintiffs' Cross-Motion for Partial Summary Judgment on Liability (Doc. No. 71), and the parties' respective opposition briefs, IT IS HEREBY ORDERED that the motions are DENIED for the reasons stated in the Court's memorandum of today's date.

IT IS FURTHER ORDERED that a telephone conference is scheduled for April 7, 2006 at 4:30 p.m. Plaintiff's counsel shall initiate the call. Judge McLaughlin's chambers telephone number is 267-299-7600.

BY THE COURT:

/s/ Mary A. McLaughlin
MARY A. McLAUGHLIN, J.