

App. 1

***State of New York
Court of Appeals***

***Decided and Entered on the
sixteenth day of October, 2018***

Present, Hon. Janet DiFiore, Chief Judge, presiding.

Mo. No. 2018-763

Veeramuthu P. Gounder,

Appellant,

v.

Argante R. Grippa et al.,

Respondents.

Appellant having moved for leave to appeal to the Court of Appeals in the above cause;

Upon the papers filed and due deliberation, it is

ORDERED, that the motion is dismissed upon the ground that this Court does not have jurisdiction to entertain a motion for leave to appeal from the order of the Appellate Division entered in this proceeding commenced in the Civil Court of the City of New York (see NY Const, art VI, § 3[b][7]; CPLR 5602[a]).

/s/ John P. Asiello

John P. Asiello
Clerk of the Court

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**Supreme Court of the State of New York
Appellate Division: Second Judicial Department**

M246703

E/sl

MARK C. DILLON, J.P.
JOHN M. LEVENTHAL
ROBERT J. MILLER
JOSEPH J. MALTESE, JJ.

2017-13142

DECISION & ORDER
ON MOTION

Veeramuthu P. Gounder,
plaintiff, v Argante R.
Grippa, et al., defendants.

(Appellate Term Docket No.
2016-1504QC; Civil Court
Index No. CV-009297/15)

Motion by Veeramuthu P. Gounder for leave to appeal to this Court from an order of the Appellate Term, Second, Eleventh, and Thirteenth Judicial Districts, dated November 3, 2017, which affirmed a judgment of the Civil Court of the City of New York, Queens County, entered March 15, 2016.

Upon the papers filed in support of the motion and the papers filed in opposition thereto, it is

ORDERED that the motion is denied.

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DILLON, J.P., LEVENTHAL, MILLER and MALTESE,
JJ., concur.

ENTER:

/s/ Aprilanne Agostino
Aprilanne Agostino
Clerk of the Court

March 1, 2018

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**APPELLATE TERM OF THE SUPREME COURT
OF THE STATE OF NEW YORK FOR THE 2ND,
11TH & 13TH JUDICIAL DISTRICTS**

MICHELLE WESTON, J.P.
MICHAEL L. PESCE
MARTEN M. SOLOMON, JJ.

----- X

Veeramuthu P. Gounder, Appellant, v Argante R. Grippa and Tew G.A. Grippa, Respondents.	DECISION & ORDER ON MOTION (Filed Dec. 7, 2017)
Lower Court # CV-009297/15	Appellate Term Docket No. 2016-1504 Q C

----- X

Motion by appellant for leave to appeal to the Appellate Division from a decision and order of this court dated November 3, 2017, which determined an appeal from a judgment of the Civil Court of the City of New York, Queens County, entered March 15, 2016.

Upon the papers filed in support of the motion and the papers filed in opposition thereto, it is

ORDERED that the motion is denied.

ENTER:

/s/ Paul Kenny
Paul Kenny
Chief Clerk

**APPELLATE TERM OF THE SUPREME COURT
OF THE STATE OF NEW YORK FOR THE 2ND,
11TH & 13TH JUDICIAL DISTRICTS**

MICHELLE WESTON, J.P.
MICHAEL L. PESCE
MARTEN M. SOLOMON, JJ.

----- x

Veeramuthu P. Gounder,	DECISION & ORDER
Appellant, v Argante R.	Appellate Term Docket
Grippa and Tew G.A. Grippa,	No. 2016-1504 Q C
Respondents.	

Lower Court # CV-009297/15

----- x

Veeramuthu P. Gounder, appellant pro se.

Desena & Sweeney LLP (Shawn P. O'Shaughnessy), for respondents.

Appeal from a judgment of the Civil Court of the City of New York, Queens County (Terrence C. O'Connor, J.), entered March 15, 2016. The judgment, after a nonjury trial, dismissed the complaint.

ORDERED that the judgment is affirmed, without costs.

Plaintiff commenced this action to recover the principal sum of \$25,000 for damages sustained to his vehicle when, while on the Long Island Expressway in Queens, New York, his vehicle rear-ended a vehicle operated by defendant Argante R. Grippa and owned by

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defendant Tew G.A. Grippa. After a nonjury trial on the issue of liability, the court granted defendants' motion for a directed verdict and dismissed the complaint.

It is well established that "a rear-end collision into a lawfully-stopped vehicle creates a prima facie case of liability in favor of the operator of the stationary vehicle and imposes a duty of explanation on the operator of the moving vehicle" (*Parise v Meltzer*, 204 AD2d 295, 295 [1994]; *see also Johnson v Phillips*, 261 AD2d 269 [1999]). If the operator of the moving vehicle does not come forward with any evidence to rebut the inference of negligence, the operator of the stationary vehicle may be properly awarded judgment as a matter of law on the issue of liability (*see Leonard v City of New York*, 273 AD2d 205 [2000]).

Here, defendants established their prima facie entitlement to judgment as a matter of law by proffering the testimony of defendant Grippa, which established that defendants' vehicle had been stopped or was stopping because of traffic when it was struck in the rear by the vehicle driven by plaintiff. There was no evidence presented by plaintiff to show that there was any fault on the part of defendant Grippa. Plaintiff only testified that defendants' vehicle stopped short. "A claim of a sudden stop by the leading vehicle, standing alone, is insufficient to rebut the presumption of negligence" (*Byrne v Calogero*, 96 AD3d 704, 705 [2012]). There being no triable issue of fact raised as to liability, defendants were entitled to judgment as a matter of law on the issue of liability (*see Szczerbiak v Pilat*, 90 NY2d 553 [1997]).

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Accordingly, the judgment is affirmed.

WESTON, J.P., PESCE and SOLOMON, JJ., con-
cur.

ENTER:

/s/ Paul Kenny
Paul Kenny
Chief Clerk

November 3, 2017

App. 8

Civil Court of the City of New York
County of Queens Trial Part 108 – Judge O'Connor

Index # **CV-009297-15/QU**

VEERAMUTAU P GOUNDER

Plaintiff(s)

-against-

Decision After Trial

ARGANTE R GRIPPA;
TEW G.A. GRIPPA

Defendant(s)

Decision

After trial, Judgment for the Defendant (s) dismissing the claim.

Comments

The Clerk is hereby directed to enter Judgment accordingly.

Date: January 5, 2016 /s/ Terrence C. O'Connor
Hon. Terrence C. O'Connor
Civil Court Judge (NYC)

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Queens County Civil Court
Civil Judgment

Plaintiff(s):	Index Number:
VEERAMUTAU P GOUNDER	CV-009297-15/QU
vs.	Judgment issued:
Defendant(s):	After Trial
ARGANTE R GRIPPA;	On Motion of:
TEW G.A. GRIPPA	Desena & Sweeney, LLP
	1500 Lakeland Avenue,
	Bohemia, NY 11716

Amount claimed	\$0.00
Less Payments made	\$0.00
Less Counterclaim Offset	\$0.00
Interest 03/17/2015 at 9%	\$0.00
Attorney Fees	\$0.00
Cost By Statute	\$300.00
Index Number Fee	\$45.00
Consumer Credit Fee	\$0.00
Service Fee	\$25.00
Non-Military Fee	\$0.00
Notice of Trial Fee	\$0.00
Jury Demand Fee	\$0.00
Transcript Fee	\$0.00
County Clerk Fee	\$0.00
Enforcement Fee	\$50.00
Other Disbursements	\$0.00
Other Costs	\$0.00
Total Damages	Total Costs & Judgment Total
\$0.00	Disbursements \$420.00
	\$420.00

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available in the
Clerk's Office.**